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The role of the state in  
television broadcasting in  
Hong Kong. Japan. and South

The Role of the State in Television Broadcasting  
in Hong Kong, Japan, and South Korea

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Submitted in fulfilment of the requirements for the degree  
of  
Doctor of Philosophy

Department of Humanities  
Faculty of Arts  
Victoria University of Technology

September 1996

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## Abbreviations

ABA: Australian Broadcasting Authority  
ANB: Asahi National Broadcasting, Japan  
ANN: Asahi News Network, Japan  
ATV: Asia Television Ltd., Hong Kong  
BA: Broadcasting Authority, Hong Kong  
BBC: British Broadcasting Corporation, UK  
BSRC: Broadcasting System Research Committee, Korea  
BRB: Broadcasting Review Board, Hong Kong  
CNCL: Commission Nationale de la Communication et des Libertés, France  
CNN: Cable News Network, USA  
CPB: Corporation for Public Broadcasting, USA  
CRTC: Canadian Radio-television and Telecommunications Commission  
CSA: Conseil Supérieur de l'Audiovisuel, France  
CTEL: Commission for Television and Entertainment Licensing, Hong Kong  
CTF: Commissioner for Television & Films, Hong Kong  
CTV: Commercial Television Co., Hong Kong  
DC: Deliberative Commission, Korea  
ESPN: Entertainment & Sports Programming Network, USA  
FBC: Foundation for the Broadcast Culture, Korea  
FCC: Federal Communications Commission, USA  
FNN: Fuji News Network, Japan  
HA: Haute Autorité, France  
HKTI: Hong Kong Telecom International  
IBA: Independent Broadcasting Authority, UK  
INA: Institut National de l'Audiovisuel, France  
ITA: Independent Television Authority, UK  
ITC: Independent Television Commission, UK  
ITU: International Telecommunication Union  
ITV: Independent Television, UK  
JNG: Japan Network Group, New York  
JNN: Japan News Network  
JSTV: Japan Satellite Television, London  
JSB: Japan Satellite Broadcasting Co.  
KBC: Korean Broadcasting Commission  
KBC: Korean Broadcasting Corporation  
KBEC: Korean Broadcasters' Ethics Commission  
KBS: Korean Broadcasting System  
KCCC: Korean Cable Communications Commission  
KOBACO: Korea Broadcasting Advertising Corporation  
MBC: Munhwa Broadcasting Company, Korea  
MOC: Ministry of Communication, Korea  
MOCI: Ministry of Culture & Information, Korea  
MOI: Ministry of Information, Korea  
MPT: Ministry of Posts & Telecommunications, Japan  
NAB: National Association of Broadcasters, USA  
NABJ: National Association of Commercial Broadcasters in Japan  
NHK: Nippon Hoso Kyokai (Japan Broadcasting Corporation)  
NNN: Nippon News Network, Japan



NTV: Nippon Television Network, Japan  
ORTF: Office de Radio Diffusion-Télévision Français, France  
PBS: Public Service Broadcasting, USA  
RCB: Recreation and Culture Branch, Hong Kong  
RDF: Rediffusion, Hong Kong  
RRC: Radio Regulatory Commission, Japan  
RTV: Rediffusion Television, Hong Kong  
RTHK: Radio Television in Hong Kong  
SBS: Seoul Broadcasting System, Korea  
SFP: Société Française de Production, France  
STAR-TV: Satellite Television Asian Region Ltd., Hong Kong  
TA: Television Authority, Hong Kong  
TAB: Television Advisory Board, Hong Kong  
TBC: Tongyang Broadcasting Company, Korea  
TBS: Tokyo Broadcasting System, Japan  
TDF: Télédiffusion de France  
TVB: Television Broadcasts Ltd., Hong Kong  
TVBI: Television Broadcasts International, Hong Kong  
TXN: Tokyo News Network, Japan

## **Abstract**

The present study examines the role of the State in television broadcasting in three selected countries in Northeast Asia: Hong Kong, Japan, and South Korea. A comparison of the three countries is made with special reference to: (a) the context in which television regulation has been shaped and developed; (b) the relationship between the State and television broadcasters; and (c) the operational practice of State regulation over television broadcasting. This is followed by an analysis of State control over television broadcasting on a country-by-country basis.

The principal finding of this study is that the degree and mode of State control over television broadcasting has been exerted through the basic regulatory framework, under which the State has continued to play a central role. Differing modes of control are identified as maintaining the close relationship between the State and television broadcasters in each of the three countries.

It is concluded that the overall degree of State control over television broadcasting in all three countries has not changed significantly over time. It also concludes that the dominant common cultural factor in the three countries, that is Confucian values, has been reflected in the practice of regulating television broadcasting.

## Acknowledgements

I wish to thank a number of academics, government officials, and television personnel in Hong Kong, Japan, and Korea, for their cooperation and support for this research. Among them, my particular thanks are to Masaaki Itakura at the NHK, U.R. Kim, Hankuk University of Foreign Studies, Seoul, and Ernest Martin Jr., Hong Kong Baptist University, who provided me assistance and contact arrangements during my research trips to each of the countries.

I am also grateful to John McLaren, David English, Phillip Deery, and Peter White for their useful comments on my work in the departmental seminars. My particular thank is to Eric Lloga who willingly commented on the earlier draft, and provided me useful ideas.

My deepest thanks goes to John Sinclair, who, as my principal supervisor, broadened my sights and deepened my understanding on the topic and wisely guided me throughout with enthusiasm.

I wish to thank the Victoria University of Technology for the Commonwealth Scholarship (Australian Postgraduate Research Award). Both the Department of Humanities and the Faculty of Arts, Victoria University of Technology, provided me their consistent support during my research.

I also wish to thank the Australia-Korea Foundation, Department of Foreign Affairs & Trade, for their generous financial support for the field trips to Korea, and the Asian Studies Association of Australia for a field trip to Canberra.

Finally, I thank Hwa-Seon Lee, my wife and best friend, for encouraging and supporting me in many ways throughout the difficult times and for sharing my intellectual obsession.

## Introduction

As far as television broadcasting is concerned, there has been an uneven amount of research focus on specific cultures and geographical areas, with more attention given to Western European and North American systems (Hur, 1982). This, however, is not surprising when we consider that broadcasting originated and developed in the Western European and American context, and that the historical world power structure was dominated by the Western industrialised countries and former USSR.

The growing recognition of economic development in the Asian region in broad terms, and the launch of STAR-TV in Hong Kong in 1991 in particular, has attracted growing attention to television broadcasting in the region. Prior to this, the traditional Western view of Asian media, and television in more recent times - that it is the mouthpiece or propaganda tool of the government - has been static rather than dynamic in its conception, and collective rather than individual in its applications. It is only recently that this static and collectivist perception of Asian television has been challenged and changed. This is partly because of the democratisation, albeit partial, in the political landscape, and partly because of the introduction of new media technologies and the privatisation of the television broadcasting.

While the State's overt control over television broadcasting in Asian countries has been widely assumed as a common feature, television broadcasters in the Western democratic countries also have not been immune to State control.

It [broadcasting supervision] contributes in every country to a relative ordering of the broadcasting systems and aids by avoiding clear abuses and preventing blatant violations of the rules. But it always approaches its limits.. (Hoffmann-Riem, 1992: 199-200)

This comment on television broadcasting in Western democratic countries suggests that State intervention in television broadcasting has been unavoidable and taken for granted, yet at the same time, it is clear that the regulation of television broadcasting also has had to respond to various other changes. These changes have emerged from political, economic, cultural, and/or technological reasons.

The type of State control over television broadcasting, however, varies from country to country depending on its regulatory history, national policy, and availability of resources. As in many other countries, television broadcasting in Asia was introduced and adopted from or was modelled after the systems of the major Western countries.

.. there is no way to generalise about the Asia-Pacific region. Virtually every country has its own language or languages and its own culture or cultures and there is every possible type of political system. There is no 'typical' country in this region and there is no 'typical' broadcasting organisation. (Leonard, 1993:123)

The underlying implication of this comment is that there is a great deal of dynamic change in this region, in political and cultural terms. If this is true, the same level of dynamics also may be expected to exist in television broadcasting, because it has both political and cultural impacts on the society. This means that television broadcasting and State control over it have to be examined on a country-by-country basis, which includes in-depth analysis of the various factors salient in each country.

Against this background, this study looks at the role of the State in television broadcasting in the three selected countries in the Northeast Asian region; Hong Kong, Japan, and South Korea (hereafter Korea). Despite the differences in national characteristics (Table 0.1.), these countries have several features in common.

Table 0.1. - National profile of Hong Kong, Japan, and Korea.

	Hong Kong	Japan	Korea
Political system	Dependency (UK) Crown colony until 1997	Parliamentary democracy	Republic
Population	6.2 mil.	125.4 mil.	45.0 mil.
Number of households	1.8 mil.	43.1 mil.	13.8 mil.
Per-capita GDP (US \$)	\$22,527	\$21,328	\$10,534
Literacy rate	90%	100%	96.8%

Sources: Asiaweek, January 5 1996,  
BIB World Guide, 1993.

Politically, since World War II, they all have maintained close relationships with Western (Anglo) hegemonic powers. In the case of Japan and Korea, that power has been the USA, and Britain has been the dominant power in Hong Kong. In economic aspects, these countries have emerged as preeminent economic powers in the region since the 1960s. And culturally, these countries share a broadly similar system of values and beliefs, that is, the Confucian tradition.

Table 0.2. shows some basic features about television broadcasting in the three countries. Apart from the demographic differences, however, each of the three countries also differs in its system of television broadcasting and its regulatory structures. Hong Kong has long been a believer in private television, while, from the start of television, the dual system of public and private television has been maintained in Japan. Somewhat different from the static systems of Hong Kong and Japan, Korea has undergone a number of changes in television broadcasting. With respect to the regulatory structure, the State bureaucracy has been the major regulator in all three countries, but the range and degree of its regulation over television broadcasting has been varied.

Accordingly, the major starting point of this research is not whether State control over television broadcasting is exerted or not, but to what extent and by what means State control has been exerted in a specific context. If these can be identified,



the role of the State in television broadcasting is expected to be better understood.

Table 0.2. - A glimpse of television in Hong Kong, Japan, and Korea.

	Hong Kong	Japan	Korea
People per TV	3.6	1.6	3.4
TV penetration	98%	99%	100%
VCR penetration	76%	75%	85%
Technical standard	*NICAM	NTSC	NTSC
Average viewing hours (weekly)	19.79	21.65	16.65
Start year; TV	1957	1953	1961
Color TV	1972	1960	1980
**Cable TV	1993	1986	1995
Satellite TV	1991	1989	1997

\* It was PAL until 1991.

\*\*Cable TV: Subscription-based cable television service.

Sources: A & M, March 8, 1996 (Hong Kong);

A & M, February 23, 1996 (Japan);

A & M, November 17, 1995 (Korea);

A & M, December 1, 1995;

Asiaweek, January 5 1996.

The research explores the role of the State in television broadcasting by identifying three aspects: the context in which television regulation has been shaped and developed; the relationship between the State and television broadcasters; and the practice of regulation over television broadcasting, mainly regarding operations and programming.

The study will begin by considering the historical role of the State in television broadcasting (PART ONE: Chapter One and Two). Chapter One looks at four dominant models of television broadcasting - those of the USA, UK, France, and the former USSR - under which different types of paradigms were

constructed and maintained over time. It provides a fundamental framework for estimating the degree of State control over television broadcasting. Chapter Two goes on to consider the current issues of the State's role in television broadcasting in more recent times, which have affected the State's regulation over television broadcasting. The issues include technological development, programming, and the economic and political aspects of television broadcasting.

PART TWO (Chapter Three) outlines the research design, which sets out the research objectives and the methodological overview. It also provides a detailed description of the research frameworks employed, by specifying the measurements of analysis and ultimately, the basis of comparison for each aspect of the areas studied; contextual, relational, and operational. The measurement of the degree of 'closeness' between the State and television broadcasters is based on three indicators - the availability of mediating mechanism(s), the confluence of shared interests, and the degree of constraints - within a broader context of common aspects mentioned above.

PART THREE, which consists of Chapter Four, Five, and Six, presents the State's role in television broadcasting on a country-specific basis. Three analytic frameworks are commonly used across each of the three countries in order to provide a better comparison in the later chapters. The frameworks consist of; the context of television regulation, the relationship between the State and television broadcasters, and the

operational practice of the State's control over television operation and programming.

Chapter Four describes how the Hong Kong Government has retained central control over television broadcasting. It shows that while the Government has maintained the appearance of maximum freedom in television broadcasting, control has been exerted under the densely prescribed regulation. It also argues that the sovereignty change to China scheduled for July 1997 has been an overwhelming factor affecting the Colonial Government's policy on television broadcasting and its regulation.

Chapter Five shows that the State's control over television broadcasting in Japan has been exerted to ensure that the status quo, that is, a dual system of public/commercial broadcasting, is maintained. However, the control over public television broadcasting has been somewhat different from that over commercial television broadcasting, placing more emphasis on the former. The chapter stresses that the apparent harmony between the State and television broadcasters, especially on programming issues, has been due to the self-censorship which the television broadcasters practice in anticipation of the State's disapproval.

Chapter Six demonstrates that successive military governments in Korea dictated the relationship between the State and television broadcasters until the early 1990s. It also

illustrates how the traditional measures of overt control, such as censorship, have been avoided, and substituted by indirect control consistent with State priorities and interests. The chapter concludes that the indirect mode of control has created a more significant gap between the legal requirements by the State and the practices that were imposed by television broadcasters.

PART FOUR, which consists of Chapter Seven, Eight, and Nine, constitutes an extensive comparison of the role of the State in television broadcasting in the three countries as a whole. Chapter Seven compares the contexts in which television regulation has been shaped and developed in the three countries, and argues that despite the different perceptions and principles of television broadcasting, the contexts of regulatory shape and its changes in all three countries have been more oriented by political, rather than other factors, such as economic and technological changes.

Chapter Eight presents a thorough analysis of the State's relationship with the television broadcasters. It compares the degree of the closeness between the two, based on the three measurements; the availability of the regulator which mediates the State and television broadcasters, the degree of confluence of mutual interests, and the degree of legal, structural, and moral constraints. The chapter concludes that the close relationship between the State and television broadcasters in the three countries has been maintained not in an open fashion,

that is, according to the free will of television broadcasters, but in an enforced or limited fashion, under which the relationship has been bound mainly by legal constraints (Hong Kong), or indirectly enforced or limited more by moral and structural constraints (Japan and Korea).

Chapter Nine then provides the major evidence for the different degrees and modes of the relationship between the State and television broadcasters via an extended comparative analysis of the degree of the State's control over television operation and programming. The findings from this chapter support a view that different types of relationship between the State and television broadcasters have created the different degrees of State control over television broadcasting, and in each of the three countries, the overall degree of State control over television operation and programming has not changed significantly over time.

The study concludes with PART FIVE (Chapter Ten) which presents the main findings about the comparisons of the State's role in the three countries. The position which is arrived at here is that, despite the variations in their degree and mode, the relationship between the State and television broadcasters in all three countries has been one of contestation in which a set of factors affect it. And, at the same time, the relationship has been dependent on how closely television broadcasting serves the interests and priorities of the State. Another important discussion presented in this chapter is that

regulatory practice of television broadcasting in the three countries, to a varying degree, has also been culturally based, that is, the dominant values of Confucianism - collectivism rather than individualism, and emphasis on morality rather than the law - have been significant in maintaining the State's control over television broadcasting. What this suggests is that Confucian collectivism is more complex than the Western view commonly assumes.

**PART ONE: Review of the Role of The State in Television  
Broadcasting.**

PART ONE reviews the role of the State in television broadcasting both in the remote and more recent past. Chapter One looks at the historical role of the State in television broadcasting, mainly based on the four dominant models; those of the UK, USA, France, and former USSR. Chapter Two devotes more to the recent past development of television broadcasting and reviews major factors which have affected both television broadcasting and its control: technological, cultural, political, and economic. Also, some of the methodological issues of comparative studies of television broadcasting are discussed.

## Chapter One - The Historical Role of the State in Television Broadcasting.

The role of the State has gone through three phases - minimal technical control, interventionist regulation, and deregulation or reregulation. Television broadcasting in many countries has taken a similar path of development to that which followed the introduction of radio in the 1920s as a means of communication to the general public (McQuail, 1992). Since the introduction of television in the post-World War Two era, the main role of the State in the early development of television broadcasting, as in the control of spectrum scarcity of radio broadcasting for which the allocation of spectrum also was required, has been the technological control over the airwaves. The underlying assumptions behind such State intervention have been that the airwaves are a public resource, and that the limited number of frequencies has to be allocated to those who use the airwaves in responsible manner. The allocator has been the government or government agencies. In this sense, technological control over television has, to a varying degree, stemmed from the fear that an excess of broadcast channels would bring chaotic competition.

However, as the markets for television were growing and its social influence came to be regarded as significant, the traditional role of the State in television expanded to include, apart from the mere control of technological allocation, the multi-dimensional control in every aspect of television broadcasting, ranging from political and economic



involvement in the ownership and control of television licences, on one hand, to social and cultural significance reflected in the programming, on the other.

Yet, in his observation of the television broadcasting in the UK in the mid 1980s, Ellis (1986) describes the role of the State in broadcasting as relegated to the scrap-heap of history - along with questions of ethics, culture and even commercial viability. With the development of new broadcast technologies, such as satellite and cable television, which created an abundance of television channels, the spectrum scarcity argument becomes less convincing as a justification for the State's control over television broadcasting.

It would be impossible and undesirable for television broadcasting in one specific country to be copied from the television system in another country. Rather, the television broadcasting systems in many countries have tended to imitate or adopt one of the models of television system which were first developed in the UK, US, France, and the former Soviet Union. For example, UK and French models have been adopted in the post-colonial territories of Asia and Africa (Jefkins & Ugboajah, 1986; Howell, 1986; Katz & Wedell, 1978), the US model in Latin America (Howell, 1986), and the Soviet Union model in many of the former Communist countries in East Europe (Howell, 1986) and the People's Republic of China.

### 1.1. The Role of the State in Dominant Television Broadcasting Models.

Although the main focus of this study is on the role of the State in television broadcasting in the three North-East Asian countries of Hong Kong, Japan, and South Korea (hereafter Korea), the subject cannot be examined except in conjunction with the development of certain historical models of television broadcasting system in which the State has directly or indirectly exerted its influence.

In order to explain the differing development and arrangements for television broadcasting, four models are outlined here; those of the UK, USA, France, and the former USSR. In doing so, particular attention is given to how the State has exerted its influence on the development of television in terms of ownership, control through regulation, and programming.

The main reason for choosing the models of these countries is not only because those models have been influential in setting up television broadcasting in the ex-colonial territories but also because although there have been significant recent changes, such as in their policies on technological development in cable and satellite television, each of the four models provide a stable benchmark for comparison. This, however, does not mean that the four countries have experienced no minor or major changes in the development of television broadcasting.

In reviewing the television broadcasting system in each of the four models, most attention will be given to the development of terrestrial television. This review is expected to offer some generalisations about the unique features of each model, and particularly about the role of the State in its operation and practice in each model.

#### 1.1.1. UK Model of Television Broadcasting.

Television in the UK, from its inception in 1936, started as a public service broadcasting monopoly, and national rather than local. The essence of public service television is that broadcasting should be presented as a public good, the servant of no one interest and particularly not of the government (Seymour-Ure, 1987:270). The UK system has a clearly articulated 'public service' objective which also has been appreciated by the public. Audience research conducted by IBA (Independent Broadcasting Authority) in the late 1980s found that the traditional British public service philosophy has socialized the audience to expect elements of 'quality' and 'national culture' from television (Elasmar, 1991:20).

There are two public bodies that are responsible for television in Britain; The BBC (British Broadcasting Corporation) and the ITC (Independent Television Commission). The BBC operates two channels, BBC 1 and BBC 2 which are complementary national public networks and they are financed principally by license fee which is charged to consumers. The constitution of the BBC

is governed by a Royal Charter (which was renewed without major changes in January 1996). The price of the viewer's licence is set by the government and is collected by State organisations, such as Post Office. Since the State can refuse to increase the licence fee, the economic survival of the BBC has long been in the State's hands. Apart from its role as a broadcaster, the BBC also functions as its own regulator since the ultimate responsibility for all aspects of broadcasting on the BBC is taken by its own Board of 12 Governors who are appointed by the Queen on the advice of the government. The State exercises distant control allowing the BBC to be independent of government in respect of day-to-day work, so it is free to exercise the right of the freedom of speech, and the right to comment on all matters, including the government of the day (Macdonald, 1989:37). In this sense, the BBC is an independent broadcaster, and this is one of the most distinct features of the BBC.

Despite the Report of the Beveridge Committee in 1951 which recommended the maintenance of the BBC monopoly, the State monopoly of television in the UK was broken in 1954. In recognition of the dangers of bias and self-interest inherent in a monopoly and the belief that healthy competition would bring a better service to the public (Macdonald, 1989), the Television Bill of 1954 promulgated the establishment of the ITV (Independent Television). It was regulated by the Independent Television Authority (ITA: renamed to Independent Broadcasting Authority (IBA) in 1973, and to Independent

Television Commission (ITC) in 1990), which was a regulatory body for private broadcasting, not public, and was funded by private broadcasters. While being controlled by the State, ITC is a public body, but regulates and co-ordinates private broadcasters (ITV).

ITA was a central organisation of ITV stations which were regionally-based stations. The ITA, however, did not produce any programmes itself; they were all produced and acquired by the ITVs that won the local franchises awarded by the ITA. The ITA owned and operated the transmitters, selected the programme companies, controlled the nature, amount and distribution of advertising, and was responsible for programme standards (Glencross, 1986:35). Advertising was permitted to ITV, however, it was highly regulated by the IBA (which succeeded the ITA) and strictly limited in quantity prohibiting the advertisers' influence on the programmes. Although the ITV, which started as a major television company under the ITA in 1955, was commercially sponsored television, the State introduced 'spot payments' as an alternative way to sponsorship, under which advertisers would pay only for viewing time but not for programmes. This is quite contrast to the practice in the US at the time, where the commercial sponsorship prevailed.

The growing concern about the ITV's more entertainment-oriented type of programming created demands for another channel, which would be an alternative to existing television

channels (Alger, 1989). As a consequence, another commercial channel was established in 1982, with the aim of providing more like BBC2-type of programmes, offering a choice of good-quality programmes to minority audiences. Like ITV, Channel Four earns its revenues from advertising but Channel Four derived its income from its competitor, ITV. Under the Broadcasting Act of 1981, the ITV was made to guarantee Channel Four a 14% share of its own advertising income (Evans, 1995:107). Channel Four produces virtually no programmes of its own. Instead, it is required to obtain a substantial proportion of its programmes from other than ITV companies, thus fostering an independent television production sector (Evans, 1995).

The 1990 Broadcast Act replaced the IBA with the ITC (Independent Television Commission), which enfranchises commercial television companies by a process of tendering and auctioning the eventual licenses (Hearst, 1992:71). Two commercial channels, ITV and Channel 4 are controlled by the ITC which is required to license and regulate independent television.

One of the important points noted in the UK model is that more emphasis has been on the cultural and political aspects of television broadcasting than on the commercial and economic aspects (McQuail et. al., 1992). This means that television broadcasting in the UK was in large part non-commercial in principle, minimising all forms of commercial revenue.

Commercial elements in the system, for example the ITV and Channel Four, have been closely controlled by the State.

The overall structure and control of television broadcasting in the UK clearly show that public service principle has been shown mostly by perpetuation of BBC. The same principle, however, to certain extent, also has been applied to private broadcasters as a whole. This is well reflected in the fact that the public service principle of television broadcasting has been maintained by minimising the commercial dominance of television broadcasting via a balance of the ITV and Channel 4, on one level, and by placing the commercial television broadcasters under the State's control, which strictly regulated their financial revenue, on another level.

It can be said that the State's control over private television broadcasting in the UK has been exercised not only through the regulations of structure and organisation, but also through regulation affecting programme content. This has been clearly noted in the fact that the commercial television broadcasters, ITV and Channel Four, have been strictly controlled by the regulator (IBA) in their management and operation. Furthermore, despite the independence from the State in terms of ownership, and their commercial nature in terms of its financial revenue, both ITV and Channel Four have operated under the boundary of public service obligations, which stresses the public service goals and accountability to the public. For example, specific requirements were imposed on private broadcasters in respect

of news, current affairs, religious, and children programmes (Cave & Williamson, 1995), and their programme schedules had to be approved by the IBA.

The basic principle in British television broadcasting, that is non-commercialism, which had applied to over-the-air television, however, met a strong challenge with the emergence of new broadcast media in the late 1980s. For example, in stark contrast to its view on the terrestrial television, the State in the UK saw the new broadcasting medium of cable and satellite television, as a commercial entity, leaving it to the marketplace (Elasmar, 1991; Ellis, 1986), rather than strengthening the cultural considerations which the State emphasised in terrestrial television.

#### 1.1.2. US Model of Television Broadcasting.

In stark contrast to the UK model, television broadcasting in the USA is primarily a commercial, profit-making enterprise supported by advertising revenues, and has always been an oligopoly. Predominantly a major element in the entertainment industry, television in the US has never assumed a developmental role which has been often recognised in many other countries (Toogood, 1986).

In the USA, the public service ideal, which has been a key principle in the UK model, has been absent from the beginning of television broadcasting. As a consequence, there had not



been a separate public organisation to plan and run public television broadcasting until 1967, when the Public Broadcasting Act established the Corporation for Public Broadcasting (CPB).

One of the fundamental problems that public television broadcasters have had to face is the lack of government support (Katz, 1989). They receive funding from various sources, such as government support (federal, state, and local), individual contributions, and sponsorship, as distinct from spot advertising. However, the government's support for public television broadcasting has been small as a proportion of its budget. In the 1980s, for example, apart from tax-based sources, government support was less than 25% of total public television revenue (Head & Sterling, 1990). Indeed, public television broadcasting in the US is just one small sector of US broadcasting. Although the Public Broadcasting Service (PBS) produces specific television programmes, public service broadcasting in the USA has been a minor player in the broadcasting structure dominated by commercial interests. Not more than 3% of viewers watch public television (Gross, 1995).

Commercialism and entertainment are the core of US broadcasting. In terms of ownership, the US has developed a broadcasting system that is decentralised, local in responsibility, and the most pluralistic and competitive in the world (Toogood, 1986). In other words, television broadcasting in the US is an oligopoly within a competitive situation, under

which local television stations are mostly either network owned or affiliated. Since television broadcasting has been given over to private enterprise, close State control has been historically limited (Cantor, 1985).

The regulatory body, the FCC (Federal Communications Commission), operates under a statute of the Communication Act of 1934 which is fundamentally identical to the legislative charter given to the Federal Radio Commission in 1927. Although the FCC is an independent government agency, it is difficult to see the FCC as separate from the State in that the Congress directs the FCC to regulate broadcasting and in that all FCC members are appointed by the President, with the consent of the Senate. As a legislative body, the FCC creates the rules which govern television broadcasting.

The FCC administers and enforces its regulations and also acts as a judge in the event that a rule has been violated. The greatest authority the FCC can exercise, however, is evident when granting or renewing transmission licences. By imposing strict rules for the renewal of transmission licences, for example, the FCC must consider past performance and complaints lodged by the public against a station (Head & Sterling, 1990).

One of the characteristics of the US model which distinguishes it from other models is that the State does not control the content, especially entertainment programming. Although the stations are required to serve the public's interest,

convenience, and necessity, the FCC does not specify the programming that would meet this objective. Within the established concept of freedom of speech, it has been long held that government regulation of programme content - censorship - is inappropriate (Fowler, 1984). Formal censorship is forbidden under the Communications Act, however, informal censorship has been imposed through self-regulation via the NAB (National Association of Broadcasters) Code of Ethics and the offices the networks established to enforce the Code (Broadcast Standards). The NAB as the major lobbying organisation for the industry has been extremely effective in influencing Congressional and FCC policy (Cantor, 1985:172). One subtle form of government control is the constant threat of Congressional hearings and related investigations (Rowland, 1983; Cantor, 1985).

In the case of news and current affairs programming, two major rules are applied. The Fairness Doctrine which was established by the FCC, rules that programming should be presented in a fair and balanced manner, and the Equal Time Rule which specifies the provision of fair amount of time to all candidates during an election period.

#### 1.1.3. The French Model of Television Broadcasting.

As in the UK, television in France started as a public service for which responsibility lay with the State. The French model of television has been characterised by State monopoly and the political purposes of the government of the day (Miège &

Salaun, 1989; Kuhn, 1985). From its introduction in the 1950s until 1981, television in France was provided by a single body as a public service monopoly funded by a combination of license fee and limited advertising revenues. During this period, the concept of the State monopoly over television broadcasting and programming was a dominant factor. Until 1981 when broadcasting reform was implemented under the newly-elected Socialist government, close political control was maintained over television broadcasting to ensure that news output reflected and reinforced the views and policies of the government (Kuhn, 1985:47).

This was particularly evident in 1974 when the ORTF (Office de Radio Diffusion-Télévision Français) which had existed since 1964 was reformed, after it lost reputation and confidence mainly because its news and current affairs coverage was controlled by the government through the Ministry of Information (Forbes, 1989:24). The reform of the ORTF resulted in seven separate companies - three television channels (TF1, Antenne 2 and FR3), one radio station (Radio-France), one film production company (SFP, Société Française de Production), one research & archives organisation (INA, Institut National de l'Audiovisuel), and TDF (Télédiffusion de France) which was responsible for transmission and engineering. The creation of seven companies, all government-owned, however, was part of the extension of State control over television broadcasting.

The break-up of the ORTF which gave rise to the seven companies with their own autonomy, did not mean the relaxation of the State's intervention. Rather, it gave the State more areas in which to strengthen its intervention. The intervention occurred, first, through the actions of government which had the power to nominate certain members of the Administrative Council of each of the companies (Balle, 1980:104). Parliament also exercised its intervention by authorising the collection of a television receiving license fee. The Licensing Committee also made proposals based not only on the quality of the programme but also on the amount of income other than the fee (Balle, 1980:105). This clearly shows that the State control over television broadcasting and its monopoly over production and transmission virtually remained unchanged.

On the other hand, however, the reform of the ORTF has to be seen as significant in that it was one of the earliest attempts in Europe to corporatise a nationalised industry which was also a public monopoly, by making television broadcasters financially and managerially separate and allowing them to have free contract with SFP and TDF for production and transmission services (Forbes, 1989:25). The reform also separated production from transmission, and provided the basis for all the reforms and changes which occurred in the following years (Forbes, 1989).

Kuhn's (1985) observation summarises the reason for the long existence of State monopoly of public service in France; (prior

to 1981) neither the principle of the State monopoly, nor the practice of partisan political control was ever seriously challenged, far less abandoned (p.48). Although there has been a succession of broadcasting reforms to reduce State control over broadcasting, for example, a 1959 ordinance, and statutes of 1964, 1972, and 1974, the degree of State control over television broadcasting has not been altered.

The newly-elected Socialist Party in 1981 was hostile to commercial television and wanted to strengthen public television (Wolton, 1992). However, the atmosphere of liberalism at the time led to the passing of the 1982 Law which formally adopted the principle of freedom of communication. As a consequence, the 1982 Broadcast reform established the subscription channel Canal Plus in 1984 which was run by the multi-media conglomerate, Havas, on a strictly commercial basis. The creation of Canal Plus was seen by the government as a way of diversifying the supply of television programmes (Miège & Salaun, 1989), and it virtually ended the State monopoly in programming. It is, however, difficult to see Canal Plus as the first private channel in France simply because the government exercised extensive involvement in the running of its affairs. Apart from this, the major shareholder, Havas, was the state-owned advertising company whose chairman maintained close relationship with President Mitterrand.

Another major change made in the 1982 Law was the creation of the new regulatory body, the High Authority (HA: Haute

Authorité). While it was intended that the government divested itself of its substantial powers of control over broadcasting to HA (Sergeant, 1994), the government still retained a considerable influence over the HA. The government maintained close links with the High Authority, for example, the top appointments to the High Authority were given to those who had close association with the Socialist government (Kuhn, 1985:63).

Obvious changes in the 1980s were easily noted in the number of television channels which increased from three in 1980 to seven in 1989. The fact that only two out of the seven channels are public clearly reveals a significant change in the ownership of television. This change in the number of television channels, however, has not weakened the politicisation of television broadcasting.

Perhaps, the highlight of the high politicisation of television broadcasting in France can be found in the period between 1982 and 1989, during which three successive regulatory bodies were created by different political majorities: HA; CNCL (Commission Nationale de la Communication et des Libertés); and CSA (Conseil Supérieur de l'Audiovisuel). In 1986, the new right-wing majority established the CNCL that replaced the HA, which had been introduced by the 1982 Audiovisual Communication Act. In 1989, however, the CNCL was replaced by another regulatory body, CSA, with the initiation by the new left of the government. Indeed, the central issue during this period was

highly political: the status, functions and powers of these regulatory bodies (Palmer & Sorbets, 1992; Wolton, 1992). Present status of French system is less important than the point that political control of broadcasting produces a less stable system than the arm's length approach adopted in the UK.

#### 1.1.4. The Former USSR Model of Television Broadcasting.

The government always controlled and managed television broadcasting in the former USSR, where it was state-owned, party-operated, and Marxist-Leninist in ideology. The responsible body for administering all broadcasting services was the State Committee for Television and Radio (Gostelradio) under the USSR Council of Ministers which was established in 1970. It replaced the former Committee for TV and Radio Broadcasting in order to centralize the organization and coordination of broadcasting through the USSR (Mickiewicz, 1981). The All Union State Committee for Gostelradio was in charge of programming. The State television received an annual subsidy from the government, as its sole source of finance.

The infrastructure of television broadcasting in the USSR was the product of interaction of vast geographic, diverse demographic and complex political conditions, under which the television service was vertically structured (central-regional-local). While the management, operation and programming of the television were controlled by Gostelradio, the Ministry of Communications was responsible for maintaining all technical



facilities for television, satellite and cable transmission. The Central Television Service in Moscow operating under Gostelradio was responsible for programming four channels of which two were also distributed nationwide via satellite (Howell, 1986).

Television, like other media in the USSR, was maintained as a monopoly by the Communist Party and the State. However, it would be naive to say that television broadcasting in the former USSR was simply a State- and Party-owned monopoly, for, on the other hand, television also had a place in national life. Indeed, television in the USSR featured the socialist way of life, molded public opinion, and helped provide the ideological, moral, and aesthetic education of the masses (Erofeev, 1995:176). In this way, television expressed a culture which was more than what the State wanted from television.

Under this situation, there is no doubt that direct and indirect censorship assured that the programme content accorded with party-determined policy. From the outset, the basis of former Soviet television, like that of all other media, was shaped on a set of principles originated by Lenin. The most important of these principles was 'partiinost' (or partiality to the dominant Communist ideology and party) which viewed that all media and all who worked in them expressed and reflected the interests of one class against another (McNair, 1992:303). Therefore, it is not difficult to expect that the content of

television is a reflection and expression of the ideology of the working class and propagation of the Party's view of events.

Programming was decided and administered centrally and had to conform to Soviet doctrines and norms of what is desirable and what is permissible. National control over programming was more tightly centralised with the development of transmission technology. One of the difficulties in controlling television broadcasting was that despite the jamming operations against it, television broadcasting from abroad challenged the Soviet information monopoly in general. In recognition of this matter, the Soviet Union, in the 1972 UN General Assembly, claimed that direct television broadcasts without the consent of the receiving country should be declared illegal (Abshire, 1976:51).

In programming, the State laid down and maintained the principle that programme content be educational in order to help socialise and instruct the viewers (Mickiewicz, 1981; Howell, 1986). The State appreciated the new potential for furthering mass political indoctrination and, yet sometimes ironically, for foreign penetration of information. The State's intervention in programming and format was also noteworthy. For example, recognising the growing popularity of foreign media within their borders in the 1960s, the Soviet State adopted the formats of Western television programming with more entertainment-oriented programmes, in order to achieve the mass

appeal in more efficient ways, rather than continuing with expensive jamming operations which in reality were undesirable (Howell, 1986:143).

The entertainment-oriented programmes, however, was carefully adopted, mainly because entertainment programmes were contradictory to the traditional Marxist view, which saw mass appeal entertainment as imbued with bourgeois elements such as commercialism, sex, violence, and decadent music. For this reason, the State imposed the strict mandate which obliged all entertainment programmes to include the communist ideology in their contents. Despite the fact that, since the introduction of the policy of 'perestroika' and 'glasnost' in the 1980s, when national broadcasters enjoyed some amount of freedom in selecting issues in their programmes (Kravchenko, 1988:13), through the close organisational relationship between the socialist media and the Party, the western principles of neutrality and balance in media performance were hardly practiced.

The break-up of the Soviet Union and the collapse of the Communist system in the Eastern European countries in the early 1990s brought an end to the State and Party monopoly over television broadcasting in these countries. As a consequence, the old system of Soviet television has been dismantled and decentralised, and new broadcasting laws have provided for demonopolisation and introduced private television broadcasting, as in Russia, the Czech Republic, Romania,

Poland, Estonia, Slovenia, the Ukraine, and Croatia (Jakubowicz, 1995).

Although the former USSR model belongs to a past era, it appears that the model is still influential in the new Commonwealth and Eastern European countries, where the 'umbilical cord between broadcasting and the State has hardly been weakened' (Jakubowicz, 1995:133). In a situation where there are no large owners in the broadcasting field that could effectively compete with the State, private ownership has not yet been fully legalised in this sphere due to the resistance of the old ideological forms (Androunas, 1993).

This means that the demonopolisation and commercialisation of television broadcasting introduced in those countries have not automatically ended nor loosened the State's control over television broadcasting. Yet, in more realistic and practical terms, the demonopolisation and commercialisation of television broadcasting have been hampered by the poor economic situations in those countries, where the development of a free market economy, and the necessity for attracting foreign investment and boosting advertising revenue, is still in progress (McNair, 1992; Jakubowicz, 1995; Erofeev, 1995).

## 1.2. Conclusion.

A brief review of the dominant television systems in the four countries discussed in this chapter shows that the State

directly or indirectly has exerted its influence in the development of television broadcasting. The form of control, however, varies significantly in the four models. As noted in the four models, the central point of argument raised in this chapter is that it is not a question of absolute freedom or total control, but the mode and degree of the State involvement in television broadcasting which characterises the dominant features of each models. Variations in the nature and degree of control can be understood in terms of the State's conception of television broadcasting. In the former USSR model, for example, the State regarded television as an instrument of propaganda and also as a means of information control. In other models, television was conceived as one of the media which could serve the public interest.

Table 1.1. - A comparison of the State's control in terrestrial television in the four countries examined in this chapter.

	USA	UK	France	Former USSR
Ownership	Private	Public	Public	State-monopoly
Control	Weak	Weak	Strong	Strong
Programming	Weak	Weak	Strong	Strong

Each model reviewed serves as a point of reference in mapping out the role of the State in the countries which will be studied. Although a brief and loose one, Table 1.1. provides a comparison of the State's role in terms of three aspects in television broadcasting.



## **Chapter Two - Current Issues Concerning the Role of the State in Television Broadcasting.**

This chapter reviews the main issues which affect the role of the State in television broadcasting, based on the Western European and Asian experience in the development of television broadcasting in the recent past. Television broadcasters have been closely associated with the State because the State formally sets the terms of the purpose, structure and funding of broadcasting through laws and regulations. This association has been more intensified in the less developed nations where the State frequently functions as a broadcaster and a regulator, than in the developed countries, where the State functions mainly as a regulator. Undoubtedly, the issues in television broadcasting and the State's control over them vary from country to country.

Television broadcasting, like most other audiovisual media, still does not enjoy the degree of freedom of publication granted to the print media. McQuail (1992) provides reasons for this: the perceived political and social significance of television; the principle that access to limited airwaves should be allocated in an equitable manner; technical reasons in using and maintaining national resources; and public expectations from television broadcasting (p.49). These reasons provide a useful basis for the examination of the State's role in television broadcasting, which can be regrouped into political, technological, programming, and economic aspects.

It has to be stressed from the outset that each of these aspects cannot be explained separately. On the contrary, all aspects are interrelated. For example, when new technologies such as cable and satellite television are taken up, competition and political challenges can be expected to follow. It is also the case that the new media technology has been invariably intertwined with more general matters of national economic policy.

Despite these interrelations, however, this chapter attempts to review the technological development, programming, political and economic aspects of television broadcasting, considering each of them as a separate area. The main reason for doing this is to highlight the issues in each aspect and to provide a conceptual framework for the study. In each aspect, the main issues which affect the role of the State will be addressed. At the end of the chapter, some of the issues raised in the comparative studies of television broadcasting also are addressed.

## 2.1. The State as a Regulator.

Before reviewing the various aspects of the role of the State in specific areas of television broadcasting, it would be appropriate to start with the identification of the State as a regulator. Due to its abstract nature, the conceptualisation of the State has long been controversial, not least because implicit and explicit differences have lain in opposing



political orientations, notably liberal democracy and Marxist approaches. Traditionally, the definition of the State has been identified in terms of its generic features as a form of macro-political organisation, with a specific type of political orientation.

In political science, the definitions of the State range from organisational/functional definitions to liberal/Marxist definitions. Organisational definitions describe the State, as 'the highest level locus of power present in the modern political environment (Poggi, 1990:24)', and as 'a set of governmental institutions, and government is the process of making rules, controlling, guiding or regulating (Dunleavy & O'leary, 1987:1).'

The functional definition of the State, on the other hand, highlights the key function of the State as the production of social cohesion.

The core of the State .[is].. a distinct ensemble of institutions and organisations whose socially accepted function is to define and enforce collectively binding decisions on the members of a society in the name of their common interests or general will. (Jessop, 1990: 341)

While the definition of the State in political science emphasises its functions and processes, the definition elsewhere in the social sciences stresses the sovereignty of the State within the territory. The State has been defined as;

.. a political form of human association by which a society is organised under the agency of a government that claims legitimate sovereignty over a territorial area. (Theodorson & Theodorson, 1969:412)

.. the political-legal institution that represents the whole of a country, its territory, and its people. (Encyclopedia of Sociology, 1974:284)

'The State' in this study is defined as the whole machinery of political-legal institutions which serves the interests of a given nation. The State includes executive (all levels of government), legislative (Congress and Parliament), and the judicial bodies (Courts). So, within this definition, government, as a part of the State, exercises and enforces the power of the State. Vincent (1987) elaborates the difference between the State and government.

.. it [State] allows the structural changes and removal of governments to proceed while still maintaining the continuity and legitimacy of the social order. If government were totally identified with the State, then each removal of government would entail a crisis in the State. (p.31-32)

Any discussion on the role of the State in television broadcasting has to begin with the various modes in which television is regulated. In all countries, the State functions as a regulatory authority for television broadcasting. However, the State's functions have been varied, depending on whether it is a regulator or a broadcaster. For example, in many of the former Communist and the Third World countries where the State functions as a broadcaster, State control is at its maximum.

In other countries where the State functions as a regulator, however, the level of control varies significantly.

The regulatory power for television broadcasting can be centred on a single State authority through which the State can exercise maximum control on television broadcasting. This is particularly true when the State actually runs the industry. The regulatory authority also can be divided into several branches which share control over the ways in which the television system is operating. In democratic countries which have their own mediating agency, these branches include legislative, executive, and regulatory agencies (Browne, 1989; Cave & Melody, 1989).

#### 2.1.1. Mediating Regulatory Systems.

One of the fundamental features in the regulatory structure of television broadcasting has been the development of a mediating regulatory system, which links yet stands between the State and the television broadcasters. The reasons for the creation of a mediating regulatory system for television broadcasting vary from country to country, depending on the political tradition and bureaucratic structure of the country.

Although a detailed discussion of the functions of a mediating regulatory system is beyond the scope of this study, it is worth identifying some of the major functions and their variations. First and foremost, the mediating agency performs

a filtering role between State/government/bureaucracy and television broadcasters. It filters government policies or decisions through to television broadcasters either directly or indirectly. More specifically, it functions as a mechanism where the power of government and television broadcasters are negotiated, discussed, enforced, or modified. In this process, the mediating agency, as an arbiter, functions to resolve disputes, find solutions, or agree to common actions.

The mediating agency also carries out specialised functions. For example, it sets what is and is not acceptable in programming and advertising, such as programme standards and codes of ethics. Importantly, the mediating agency also can have the function of protecting broadcasting from political interference - that is, as a legal entity within its own right, it has a role within the State which is sheltered from government arbitrariness.

In authoritarian countries where television broadcasting is dominated by a dictating political party or regime, the mediating agency is either irrelevant or does not exist, or is created purely to give the appearance of openness or democracy. For example, in the People's Republic of China, North Korea, the former USSR and its Commonwealth in Eastern Europe, television broadcasting is or was run and operated by the Communist Party.

The key issue of the functioning of the mediating agency in television broadcasting has been the political independence of the mediating agency (see section 2.5.). Arguing that the degree of political control over the communications industry depends on the structural features of the intermediating agency, Noll (1986) provides several factors which influence the effectiveness of the State's control (p.59-60). These are;

- 1) The degree of mandates (instruction) of the agency defined in law.
- 2) Who runs the organisation, and how are the leaders appointed?
- 3) What procedures must the organisation follow for reaching decisions?
- 4) The amount of resources.
- 5) Advisory to the political actors, to industry or to both?

He means intermediating agency in the broader context of the communications sector as a whole, such as regulatory agency or some other bureau comprised of professional mediators (Noll, 1986:58). It would, therefore, be reasonable to assume that the intermediating agency in the case of television broadcasting is the regulatory agency. Apart from factor 5) which requires broader examination of the issues to which it refers, the first four factors provide a useful tool for measuring the structural features of the regulator in television broadcasting. These are the factors which have affected the regulator's internal level of operation. In the next sections, major external factors which have affected the role of the State in the operation of television broadcasting and its regulation, are reviewed.

## 2.2. The Role of the State in the Technological Change.

To a varying degree and mode in its involvement, the State in many countries owns and/or operates the distribution and transmitting facilities for broadcasting, and makes the major technological decisions. Terrestrial television broadcasting has been developed in its limited form due to the finite nature of the frequency spectrum, which has allowed the State to justify its control over television broadcasting. Technical control such as proper allocation of the spectrum and the selection of television service providers were initial concerns of the State. However, the spectrum scarcity has been replaced by abundance in television channels due to transmission technologies, making absolute State control no longer indispensable.

The emergence of satellite and cable television provided some countries, particularly the developing countries, an economic opportunity to capitalise on the new broadcast technologies. For example, in South-East Asia, where the political climate is mainly authoritarian, television broadcasting, until recently under government monopoly control, has begun to be converted to a profitable business enterprises (Karthigesu, 1994). Yet on another level, however, the emergence of satellite and cable television has been also challenging many of the basic assumptions upon which conventional television broadcasting policy is founded.

It has to be emphasised that although satellite and cable television were introduced in the advanced countries as early as in the 1950s and 1960s, no clear evolved models are suitable to the present situation of satellite and cable television. On the one hand, this is mainly because both cable (except in the USA) and satellite television are still in the process of development. On the other hand, it is due to the competition for control over the systems between the telecommunications sector and broadcasting authorities. In this process, it is obvious that the State's role becomes more complex.

The major role of international organisations, notably the ITU (International Telecommunication Union), in the introduction of the new media has been in the provision of regulations which have defined standards and the technical parameters, such as the allocation of frequencies and orbital positions. This requires international cooperation between States. Further complexity arises at the level of each State's policy on how to place the new broadcast media into its existing television structure.

Apart from technical complexities, a serious challenge also stems from transnational television broadcasting. The development of new technologies of cable and satellite means that television programmes are able to cross frontiers in quantity and create a new international medium (Shaw, 1986:18). A fundamental question which arises from this is, what degree of regulation is necessary to ensure the free flow of

television broadcasting on one level, and to protect local television broadcasting systems on another level? It has been particularly serious in the countries who cannot compete with their neighboring countries on equal terms.

One major hindrance faced by the State in controlling television broadcasting has been the unavoidable spillover from other nations, which is beyond control of the receiving nation. The reaction of individual nations to this transborder spillover varies from a total ban on the installation of both individual antennas (TVRO) and collective antennas (SMATV) for the reception of satellite signals, to cooperative attempts such as prior agreement. The latter case has been more visible in West European nations, especially after the 1977 Geneva Plan, as part of an ITU initiative, which protects national television space from the intrusion of satellites. The Plan has led many nations to make a mutual agreement or to form a unified satellite to have equal access to and to participate in disseminating the shared information.

However, the rule of minimising any technical overspills of satellite television transmissions into other countries, provided for in the Plan, was not fully observed when France and the former Federal Republic of Germany were threatened by possible satellite television channels broadcast from Luxembourg where the commercial tradition has been strong (Richeri, 1992:73).



Unlike in Western Europe, where a collective solution has been sought, the issue of trans-border spillover has been more controversial in Asia, where in many countries, terrestrial television has been heavily regulated but satellite television from outside has been entirely free from government control. As a consequence, many Asian countries either have banned or been reluctant to legalise the possession of the dishes. It is only quite recently that they came to realise that direct satellite broadcasting from abroad is beyond control of one specific nation.

In his study of national responses to STAR-TV (Satellite Television in Asian Region), which is broadcast from Hong Kong to most countries in Asia, Chan (1994) observes that policy measures against STAR-TV have not been uniform. Due to cultural, social, and political diversity in the region, Chan (1994) predicts that the international flow of information via STAR-TV depends on national government policies rather than international negotiations (p.128).

Although many Asian countries are voicing the need for cooperation in the region in a plethora of seminars and symposia on the issue of satellite broadcasting in Asia, there remains a lack of consensus. This has been partly due to different perceptions and attitudes towards the new broadcast technologies, and partly due to cultural, social, and political diversity in the region. The predictions have been long-term rather than short-term. For example, Lee and Wang (1994)

predicts that before forming a uniform regional culture like in Europe, the Asia-Pacific will probably be segmented into four dominant cultural markets, that is, Confucian, Hindi, Islam, and English. As seen from the West European experience, however, although this may be an ideal form of controlling the spillovers, it is difficult to expect how far Asian countries can help each other.

The brief review of the role of the State in technological change and the issue of trans-border spillover based on the West European and Asian experience clearly shows that the State has been invariably placed in a more complex and uneasier position than before in exerting its control over television broadcasting as a whole.

### 2.3. The Role of the State in Programming and Programme Content.

The main issue of the role of the State in programming that needs to be raised is the mode and degree to which the State intervenes in programming and programme content. This is variable, depending on who the priorities and interests are attached to; the State, television broadcasters, or the general public. In the Third World and the Communist countries, where the priorities and interests have been more attached to the State, the State controls programming and programmes content on its own terms, whereas in countries, such as the USA, where commercial interests are dominant in television broadcasting, programming has been mainly left to the television broadcasters

themselves. On the other hand, in the Western European countries, where importance has been more attached to the public accountability and interest, the State has controlled the programming on the public's behalf.

The rationale for State control over television programming in the Western European countries has been preserving the public interest. The underlying implication behind this is that if television broadcasters were left to their own discretion in programming, it would decrease the quality of programmes, while at the same time increasing commercialism. The State in the developing countries, however, has exercised its control over programming in order to promote its policies and quite often justify its political legitimacy.

The increase in the number of channels has invariably led to an increase in competition in the area of programmes and programming. In order to meet the diversity of viewers' expectations in a situation where the number of channels increases, the broadcasters must not only satisfy the varying demands of the viewers but also follow certain standards and practices imposed by the State. This competition, however, occurs not only between established channels and newcomers, but also among the established channels or/and among the new channels.

This section reviews the mode and degree of control in programming. The degree to which the State intervenes in the

programming is considered in terms of whether it is in the form of direct control or more subtle control, that is through self-regulation. Attention is also given to the different forms of self-regulation regime imposed on the broadcasters.

#### 2.3.1. Different Modes of Control on Programming.

In many Third World and Communist countries, where television is owned and operated by the State, the television organisation has consistently been instructed on their proper roles. Those roles have imposed rigid forms of control mechanism such as censorship or preview systems, obliging broadcasters to support and cooperate with the government. In Western democratic countries where television is owned and operated by the State or private companies, the State's intervention in programming has been, to a varying degree, less restrictive than in other countries.

One of the fundamental reasons in explaining the different levels of control over television programming could be found in the State's different conception of television. The State in the Asian countries (except Japan) has conceived television as its instrument of propaganda and information control under the guise of national development. For example, news and information in many Asian nations have been stressing positive news, by ignoring much negative and oppositional information, and by supporting government plans and ideologies (Lent, 1989:19). In stark contrast, liberal democratic States in

Western countries, despite the varying philosophies on television broadcasting (see Chapter One), have seen television as a public utility, with which the public can be informed, educated, and entertained.

In explaining the competition in Europe, Souchon (1992) makes a distinction between conservative and aggressive competition. He explains, in a conservative competitive situation (such as Spain, the former West Germany, or UK) the absence of overt competition between big channels allows more kinds of programmes, whereas in the aggressive competition situation (such as France and Italy) where there are more channels, there is less choice the audience can have (Souchon, 1992:50). In either situation, however, it is evident that the State has to intervene to the extent that the broadcasters maintain programme guidelines.

Blumler & Hoffmann-Riem (1992) claim that in democratic nations, the external regulators' abilities to influence programming are normally indirect, limited and modest, partly because democratic societies are wary of risks to free expression (p.202). This means that while the regulators can aim to block the excessiveness and abuses of broadcasters' power through certain framework conditions within which they must operate, the regulation on programming has been practiced to the extent that it respects the freedom of the press, which is a fundamental process in democratic countries. In this sense, although the commercial broadcasters are obliged or

expected by the regulator to serve the public interest, especially in Western Europe, the nature of entertainment-oriented programming has not been significantly influenced by regulators.

State control over programming is also exerted with the intention that national identity and cultural sovereignty have to be retained. The result has been the imposition of certain amount of specific type of programmes (such as local production, in-house production) and limitation of air time. For example, in Canada and Australia, where the experience of colonialism has been quite distinct from that of other former colonised countries, placing them in a disadvantageous position due to their small market size (Sinclair, et.al., 1996), the protection of their national culture and identity has been historically strong. As a result, the regulation of the programme content requires each broadcaster to maintain a proportion of national content. For example, in Canada, where most of its population have access to US television services, television broadcasters are required to provide a minimum of 50% (private) and 60% (state) Canadian content between 6 p.m. and midnight (Collins & Litman, 1984). Similarly, in Australia, the Australian Broadcasting Authority (ABA) requires a quota of 50% Australian content on television (Cunningham, 1993). In some of the West European countries, apart from the European content quota required by the European Union, a national quota is also imposed. For example, in France, television broadcasters are required to have 50% of original French

productions, and 15% of net turnover has to be reserved for original French programmes (Jezequel & Pineaug, 1992).

However, it remains questionable whether the imposition of national quotas has been successful in incorporating other factors relative to the production of programmes. Vipond (1992) claims that despite 30 years of trying, the CRTC's Canadian content rules have not worked, mainly because they do not solve the fundamental problem: that it is not in the economic interest of private broadcasters to produce Canadian programmes. Another question raised about achieving the national goal of maintaining national culture or identity in television programmes is the difficulty of enforcing group loyalty to societal norms and State control (Noam, 1991).

In a similar vein, a no less important aspect with which the State has been concerned is the appreciation of imported programmes, especially from the USA, by the local audience. In response to this, many countries have imposed restrictions on the amount of imported programmes on a national level. The response to this, however, has also led a collective practice of regulation, notably in West Europe.

The European Television Directive, which came into effect in 1991, requires the member States to remove the barriers to the cross-border flow of programmes within the European Union (former European Community), and to encourage European content and production (Hirsh & Petersen, 1992). As one of the measures

for coping with the growing popularity of imported programmes, the Directive suggests the promotion of European identity such as cooperation and coproduction amongst the member States (Negrine & Papathanassopoulos, 1990; Plog, 1990). However, the limits of European cross-border coproduction are noted in differing national programme tradition and viewer expectations, that is, in cultural specifics, in language problems, and in the complexity and associated time expenditure of such ventures (Plog, 1990:7).

### 2.3.2. Self-regulation.

The State's direct control over programming and programme content has been exerted either in its own right, as in the developing countries, or by obliging television broadcasters to observe specific programming standards set in legislation, as in the Western European countries. However, where television broadcasting has been commercially- and entertainment-oriented like in the USA, the television broadcasters themselves adopt voluntary programme content standards in order to ensure that they do not offend the viewers, and forestall abuses that might otherwise bring on government regulation. Although self-regulation allows television broadcasters to set their own standards and practice of programming without direct control of the State, the State in the USA has maintained its control in an indirect and subtle mode, using its licensing power so as to regulate the television programming it wants.



Self-regulation has been carried out either as an individual practice or as a collective practice. Individual broadcasters, whether they are public or commercial, have their own formal codes of conduct that guide their programming policies. A typical exercise for this has been the establishment of an 'advisory committee' or 'advisory board' which is composed of people who would advise on programming. Similarly, individual practice of self-regulation has been also exercised through its own board which functions advisory role in programming. For example, the BBC is controlled directly neither by government nor industry, but by its own Board of Governors, which functions to safeguard the public interest. Despite the diverse composition of the committee or the board selecting members from inside or/and outside of the stations, however, it is often difficult to regard them as truly self-regulatory bodies responsible for the audience and the regulator.

While there may be an attempt at "representativeness" by choosing members who are young, old, rich, poor, and so on, the usual tendency is to choose people the administrators know to be interested in broadcasting but not severely critical of it. (Browne, 1989:30)

Underlying this comment is the implication that the television broadcasters have freedom in selecting the advisory members to satisfy themselves, yet they may not satisfy the regulator and/or the audience. Therefore, in order to avoid any conflict with the State, the members can be appointed by the State or selected from those who are not critical of the government.

While the advisory committee or advisory board is normally established within the broadcasting organisation, the self-regulatory mechanism can also be formed outside the organisation. For example, in the USA, the principal instrument for carrying out self-regulation has been the NAB (National Association of Broadcasters) which also functions as a lobbying organisation for the commercial television stations.

In a regulatory atmosphere where the threat of government intervention is less visible, it is more likely that television broadcasters have little motivation to satisfy all minority viewers. However, the broadcasters could face the serious challenges from them. For instance, in each instance of the legal challenges raised by viewers who were against problematic content of sex and violence on the television in the United States in the 1970s, the broadcasters relied upon a 'First Amendment defense' which claims that government regulation of content would violate their constitutional guarantee to freedom of speech and the press (Weispfenning, 1990; Reel, 1979).

Despite the differences in their legal status, for example, BBC is different from NAB in its legal charter - BBC is a broadcaster, NAB is a self-regulatory body - the State's control appears to remain intact by avoiding evident censorship, whereas the broadcasters try to retain their public credibility by pursuing voluntary self-restraint. The notion of self-regulation of programme content, however, has been challenged by overt and direct control by the State even in the

democratic nations. In the UK, for example, a BBC documentary programme scheduled to feature a Sinn Fein politician in 1985 was withdrawn by the pressure from the Home Secretary (Ellis, 1986). Since then, the British television broadcasters have engaged in self-censorship on the issues which involve the IRA (Irish Republican Army) and Sinn Fein, the IRA's political wing and a registered party (Brock, 1992).

#### 2.4. Economic Aspects of State's Role in Television Broadcasting.

This section presents the economic aspects of State's role in television broadcasting, mainly based on the West European experience in the 1980s, during which the privatisation and deregulation of television broadcasting were inevitable with the advent of new broadcast technologies. The central focus of the economic aspects of television broadcasting have traditionally been on the allocation of financial resources and the problem of funding (Garnham & Locksley, 1991).

.. how a broadcasting organisation is financed affects the relative weights of the several external influences that play on it, such as advertisers, the State, political parties, other groups concerned about their television images and the audience itself.  
(Garnham & Locksley, 1991:5)

This comment suggests that the survival of television broadcasters has depended on how well it serves the interests of those who provide financial revenue for the operation of their broadcasting. Traditionally, there have been three

sources of finance for television broadcasting: general taxation (such as government grant or licence fee); by advertisers; or by direct charges to audiences (subscription fee). It is worth briefly presenting some of the characteristics of each of these funding methods.

In a situation where a broadcaster relies mainly on the government for grants or licence fees, notably public broadcasting, the difficulty arises not in the marginal price of viewing, but incentives which face the broadcasters. In such a situation, viewers cannot convey their preferences on programmes, and the broadcasters depend more on their own judgement than on audience size or appreciation (Cave & Williamson, 1995).

When a broadcaster, notably in the case of commercial broadcasting, derives revenue from advertising sales, programmes are made available to audiences, and then those audiences are sold to advertisers. However, since the revenue received from advertisers is proportional to the audience size, broadcasters normally provide programmes which attract larger audiences, rather than those that are appreciated by smaller audiences. Another related problem with advertising-supported television has been the risk that popular programme types will be excessively duplicated amongst the broadcasters which appeal to the same mass audience (Backe, 1978; Steiner, 1952).

Another funding method of television broadcasting is to charge the viewers directly for the programmes they watch. However, even in such a situation, if the broadcasters are constrained to charging a uniform price, any increase in the price for programmes may restrict consumption, by excluding potential viewers (Cave & Williamson, 1995).

The State's influence on the economy of television is more profound upon the public broadcasters who traditionally have relied on a direct allocation or the licence fee set by the State, than to the commercial broadcasters who are required to deliver audiences to advertisers and to sponsors. While financing all or mainly through licence fee provides the public television broadcasters a high degree of independence, they are, at the same time, required to meet a set of public obligations, such as non-commercialism and the provision of quality programmes. The State's economic control over public television broadcasting, therefore, has been exerted to the extent that the public obligations are protected.

In a situation where the competition is fierce among the broadcasters, economic development has been shaped within the framework of limited financial resources which the various parties in broadcasting have to share among themselves. This has been more serious when the number of television channels and the length of air time is limited. The form of State interference in this process has ranged from fixing the level of the licence fee, to restricting advertising time, and

determining taxes levied for the financing of television production.

Until the 1980s, there was little competition for the same source of financing in Western European public service broadcasting. This is partly because the funding, via legitimisation for licence fees, was secured by fulfilling the public service obligation, and partly because the competition for the same advertising budgets had been strictly regulated (Sepstrup, 1989). However, with the advent of new broadcast technologies in the 1980s, the West European countries have seen a substantial increase in the number of programme outlets, of which the vast majority of newcomers have been privately owned and commercially funded. This has been in marked contrast to the previous situation in West European television broadcasting, which was mainly concerned about the preservation of the over-the-air public service channels, with tight regulations on them.

The economic interests motivated by the development of new media outlets, however, invariably changed the economic aspect of State regulation over television broadcasting. This is because, in practical terms, no amount or form of regulation can transform the economic driving forces that will predominantly spur the behaviour of audience and revenue-seeking competitors in a multi-channel television system (Blumler & Hoffmann-Riem, 1992:202).

It was within this economic context that new models and paradigms in broadcasting regulation were provided. Porter (1993) argues that 'a free market in broadcasting', which promotes free market competition between broadcasters, and 'broadcasting pluralism' have been major philosophies for the deregulation. According to him, 'broadcasting pluralism' can be seen as arising not only from 'external pluralism', that is, the increase of the number of television organisations, but also from 'internal pluralism', that is, the provision of a broad range of programmes (Porter, 1993:52). Similar contentions come from a number of scholars. Some contend that a combination of economic ideology, which is based on the need to harness the new technologies for broader industrial and trade concerns, and political ideology, which is grounded on dissatisfaction with the public broadcasting system, has led to the deregulation in West European countries (Peasey, 1989:36).

Hoffmann-Riem (1986) identifies a broader paradigm shift in television broadcasting policy and broadcasting law. According to this paradigm (Hoffmann-Riem, 1986:126-134), economic interests in the new technologies led the regulation to shift from a trustee model to the market model, from a cultural legitimation towards an economic legitimation of the broadcasting system, and from freedom of communication to freedom of broadcasting entrepreneurship. The corresponding shift in regulation was from freedom of communication to the

freedom to supply services, and from a culturally-based to an economically-based legal regime of regulation.

The models and paradigm shift reviewed highlight the economic impact of regulation of all aspects of television broadcasting in the European experience, and clearly indicate that, despite the differing priorities and circumstances, the regulation of television under this kind of regime is to be governed more in the marketplace than in an ideal set of broadcasting philosophies.

## 2.5. Political Practices in Television Broadcasting.

The State's political influence over television broadcasting has been continuously exercised through various means of control. Indeed, television broadcasting has been subject to the State's control fundamentally because the State formally sets the terms of purpose, structure and funding through laws and regulations. Therefore, it would not be an oversimplification to say that this intervention has been inevitable in the less developed nations where the State frequently functions as a broadcaster as well as a regulator. For this reason, this section reviews the political issues of broadcasting in democratic societies in relation to the State's role in the public service broadcasting which has been a dominant system in Western Europe. This will provide the background against which to contrast the experience of Asian countries later.



#### 2.5.1. Political Aspects of State Role in Television Broadcasting.

The political aspects of the State's control over television broadcasting have received a great deal of attention in the literature, mainly because television broadcasting requires, to a varying degree in range and application, the State's or government's approval in its operation, such as licensing. The political influence over television broadcasting can be explained in the broader context of political communication, which either relates the structural and institutional feature of political institutions to the media in general, or the uses of and persuasion by the media in the political process. While viewed from different perspectives, an institutional approach focuses on the relationship between the organisational entities (Meehan, 1986; Murdock & Golding, 1974), and on the operation of mechanisms that strain toward consonance (Gurevitch & Blumler, 1977). This approach emphasises the consensus-building, which is sought for solving conflicts amongst the organisations.

The political influence of the media in the relationship between the media and the State/government/political institutions has been the major issue under this approach. It is, however, noted that although the term 'media' has been broadly used in the studies of the relationship between the two sides, it appears that the print media have gained more attention than the broadcast media, particularly television. The main reason for this can be found in the difference in the

nature of delivery. The print media have been relatively free from the State's control due to historical reasons and their more limited penetration of society. The broadcast media, particularly television, however, has been under the State's strict control due to its perceived far-reaching political, social, and cultural influence in the society.

In their study of the relationship between the media and political institutions, Gurevitch & Blumler (1977) used three types of constraints - legal, normative, and structural - as directly subordinating the media to political institutions. The relationship between the political institutions and the media has gained much attention in political communication.

Gurevitch & Blumler (1977) contend that both the institutional and structural approach provide a view of the system in terms of conflicting goals and interests, ascribing these conflicts to structural differences between the media and political institutions (p.267). The application of these constraints, however, significantly varies with political, social, and cultural traditions of any specific country, and it also depends on how the goals and interests of political institutions are reflected in regulatory practice.

Burgelman (1989) makes a broader comment on the subject of politics and broadcasting in Western Europe.

There is, certainly, an influence of politics on broadcasting; from time to time problems do occur

between these two antagonistic worlds: but on the whole one should not bother very much about it. The tensions that do occur between these two worlds are considered as part of the game, whatever that game may be. (Burgelman, 1989:168)

What this comment indicates is that even in democratic societies, the State's political intervention has been generally taken for granted under the assumption or agreement that the television broadcasters are to be closely associated with the State because the State formally sets the terms of purpose, structure and funding through laws and regulations. Indeed, supportive comments for this assumption can be found in a number of studies of public service broadcasting (Blumler, 1992; Collins, 1992; Rowland, 1991). Various other studies have attempted to identify the political aspects of television broadcasting from different perspectives; forms of political linkage to television (Kelly, 1983), political influence over television broadcasting (Burgelman, 1989), and variables of politicisation of television (Blumler, 1992).

The political influence over television broadcasting has extended well beyond questions of freedom of the press. One of the ongoing major issues in democratic regimes is the State's use of media, including television, towards political goals. This include the control over not only the content but also the process of communication, that is, media coverage of certain issues or events. This has been most contested in the studies of political influence on the media in periods of crisis, such

as the Persian Gulf crisis (Masmoudi, 1992) and terrorism (Schlesinger, 1991).

The attitudes to broadcasting policy in general have differed in accordance with the political changes experienced by many nations. It is not difficult to find examples of political impact on television broadcasting. The moves to create new broadcasting channels, or encourage new media technology have been related to the political ideology of the party in power. For example, the authorisation of three new private channels in France - Canal Plus, La Cinq and TV 6 - in 1984/1985 by president Mitterrand was rooted in a desire to neutralise the impact of the state television system falling into the hands of the Right (Hughes, 1988:53).

Burgelman (1989) explains political influence over broadcasting from a political-sociological point of view. According to his findings, political parties and governments can have influence on the structure and development of the broadcasting system, the recruitment and selection of staff and members of the board of governors, and information policies and news management in public service broadcasting (Burgelman, 1989:173-189).

#### 2.5.2. Dependence of Regulator on the State.

The regulatory agencies in many nations, whether they are structurally separate from the State or not, are often open to a certain amount of the State intervention. Even where those

regulatory agencies are separate entities, absolute independence is hardly maintained because its top officials are often appointed by the government and its revenue for operation depend on the government's decision. While the regulatory agencies have been susceptible to the State's influence, there is some mystification surrounding the relationship between the regulatory agencies and television broadcasters.

For whatever reasons they are established, they often end up 'captured' by the very industry they are created to control. (Cave & Melody, 1989:235)

This comment on the ironic position of the television broadcasters in the Western countries reveals that the regulatory agencies have been influenced by the television broadcasting industry, mainly through informal contacts. Browne (1989) provides similar explanation for the regulatory agency's relationship with the television broadcasters, which is much closer than that with the public.

.. the regulatory agencies are more sympathetic to the broadcasters than they are to the public because agencies and broadcasters "understand one another", "talk the same language", and so on. Since the important positions in the agencies often held by former broadcasters and communication lawyers, there may be some truth to that accusation. Certainly the agencies are not representative of the general public. (Browne, 1989:37)

This comment indirectly highlights the relative absence of external mechanisms or channels, through which the general public, such as citizen groups, can voice their opinions about

the television broadcasting. Although the general public can participate in the regulatory process - for example, the citizen groups in the USA which were involved in the licence renewal process in the 1960s and 1970s (Gross, 1995) - they usually play a less immediate and sustained role than the regulatory agency and television broadcasters (Krasnow, et. al., 1990). While many regulatory agencies have internal channels for the general public, it still remains questionable how much their voices are reflected in the practice.

## 2.6. Modes of State Control over Television Broadcasting.

The studies of State control over media, including television, in Asia greatly vary in their scope and perspectives. In his survey of the media in Asia, Rubin (1993) provides five patterns of media control in Asian countries: direct control through State monopoly of the media; control by licensing and self-censorship; emergency regulations and national security legislation; pressure on the media without control; and violence against journalists. Although these patterns are based on his observation mainly about the press (he uses the terms 'media' and 'press' interchangeably), they also can be applied to television broadcasting because the State's control over television broadcasting in Asia has not been different from that over the press. This is further shown in his statement: 'in no country of the Asian mainland, except Japan and the Philippines, can television be considered an independent or pluralistic medium (Rubin, 1993:22).'

Another broader observation on the control of the media in Asia can be found in Lent's (1989) review of recent trends in and development of the mass media in Asia. The media in Asia, according to him, have repeatedly been instructed on their proper roles, and are implored to support and cooperate with the authorities by stressing positive news, by ignoring much negative and oppositional information, and by supporting government plans and ideologies (Lent, 1989:19). This means that, in Asia, the traditional role of the media has been determined by the State, and this role has not been significantly changed from their early days.

It is, at this point, worth reviewing some of the conceptual terms used for describing the different mode of State's control over the media. Hoffmann-Riem (1992), for example, uses two terms 'imperative' and 'structural' control in explaining the government regulation of broadcasting in the West European countries. According to him, imperative control imposes directions on broadcasters' conduct by means of specific requirements, orders and prohibitions, with sanctions in the case of failures to comply, whereas structural control is indirect control on the conduct of broadcasting organisations and other in the same field (Hoffmann-Riem, 1992:174-175). Earlier, Picard (1982) used similar terms 'direct' and 'indirect' to indicate how the State control and aid for the press in the USA is extended.

The definitions of these terms, however, do not seem to be applicable in other countries, for example, developing countries, where the sanctions against any violation could be frequently exercised not just as a result of a direct or imperative control but also of an indirect control. Therefore, if the mode of State control is to be clearly identified, these definitions have to be clarified and specified in detail. This will be further discussed in the next chapter.

## 2.7. Review of Comparative Studies of Television Broadcasting.

In their review of comparative communication research, Blumler and his colleagues (1992) highlight the features of comparative research; emphasis on media system, researcher's preoccupation with his/her familiarity, and the interpenetration of space and time (p.7-9). In this section, these features are discussed in relation to the comparative research on television broadcasting. In doing so, major issues relative to each of the three features are addressed, and some of the problems of comparative studies of television broadcasting are discussed.

### 2.7.1. Major Features in Comparing Television Broadcasting.

The mainstream of the literature on comparative studies of television broadcasting has focused on the broadcasting systems of countries or regions as a whole. Among them are: advanced nations (Browne, 1989), developed/Communist/Third World (Howell, 1986; Head, 1985; Martin & Chaudhary, 1983), the Third



World (Lent, 1978; Katz & Wedell, 1977), Africa (Wedell, 1986), and the Caribbean nations (Lent, 1990).

Different studies have adopted different variables or issues as criteria for comparison. For example, Katz & Wedell (1977) focus on the various constraints in the dynamic process of accommodating the Western phenomena of broadcasting in the Third World countries, while Head (1985) uses a 'problem-by-problem' approach, that is, makes his approach in terms of the universal problems and potentials common to all of the countries studied, such as ownership, regulation, and finance.

Other studies adopt more detailed and systematic frameworks for comparison. They may take in various factors in shaping the television broadcasting systems, such as basic factors of economic/cultural/political aspect, supervision, and financing (Browne, 1989); or adopt a case study of the national context of broadcasting systems, and a nation's appropriate global alignment (Howell, 1986). However, due to the vast number of countries covered, these studies tend to provide an overall picture of the development and/or systems of television broadcasting in the selected countries, at the risk of over-generalisation and the neglect of any significant features in each of the countries or regions.

Realising this problem, other comparative studies have focused more on a smaller number of countries, but provide more detailed examination of the specific topics and issues in

television broadcasting. Some of the examples of this type of comparative studies in the Western democratic countries are: cable television policy in the United States, Britain, and France (Dutton & Vedel, 1992); the reregulation of television in the USA, West Germany, France, and the UK (Porter, 1989); and the relation of broadcasting to government in four Western-style countries (Etzioni-Halevy, 1987).

As the comparative studies which deal with a larger number of countries may risk unbalancing the coverage, that is, some countries receive less attention than others, the comparative studies of more focused topics and of a smaller number of countries can also lead to a scaled-down discussion, leaving important elements of the study's subject uncovered. For example, Etzioni-Halevy (1987) excludes commercial broadcasting in her comparative study of the relationship between the political elites and national broadcasting in Australia, Britain, Israel, and West Germany. The omission of commercial broadcasting from her study, however, leads a narrow discussion on the topic mainly because the relationship between the two can not be fully identified without considering the commercial television broadcasting, especially that in the UK and Australia.

Blumler and his colleagues (1992) also stress that comparative communication research tends to treat the systems or structures in certain countries or regions as if frozen in time, presenting them more like snapshots than as moving films (p.8).

This clearly suggests that the analysis of television broadcasting in any country must be made on a continual basis. For example, in their comparative case study of cable television policy in the United States, Britain, and France, Dutton & Vedel (1992) use two functional dimensions (market/public-led and restriction/promotion) for charting their policies over time. Although their placement of nations on each continuum was based on their judgmental ratings (Dutton & Vedel, 1992:72), their path model does not seem to include whole years studied, leaving the years of any regulatory changes missed in the vacuum.

#### 2.7.2. Culture and the Practice of Television Broadcasting.

Apart from the major methodological issues in the comparative studies of television broadcasting, there is another broader conceptual issue raised in the recent development of such studies: the relative absence of considering cultural factors (or values) in the practice of television broadcasting, such as operation and regulation. Indeed, it appears that the majority of comparative studies of television broadcasting focus on the economic and political factors in explaining and comparing the different aspects of television broadcasting and their regulations, leaving the direct or indirect linkage of cultural factors to them virtually untouched. Earlier, this concern was echoed by some scholars. For example, Edelstein (1982) claims that the directions of comparative analysis can be better understood within the context of demands for the

transmission of culture and values (p.17). This broader view of advocating the inclusion of cultural factors in television broadcasting was further supported in more specific studies, such as on the relationship between television broadcasting and the government/State.

Comparing mass media systems in terms of the relationship between media and government is susceptible to ideological bias and ignores other socioeconomic and cultural factors that influence the structure and operations of the media system. (Hur, 1982:539)

One of the broader implications behind the comments made by Edelstein (1982) and Hur (1982) seems rather straight-forward, that is, while the contention that television broadcasting is a cultural production of the society has been widely accepted as a common feature, the key issue of the relationship between the cultural factors and the practice of television broadcasting still remains unclear.

Although some of the comparative studies try to link cultural factors to television broadcasting, those studies have mainly focused on identifying how certain television programming/programmes contents are portrayed, reflected, or perceived in different cultures, rather than relating cultural factors to the television broadcasting itself.

The reason for the lack of cultural factors in comparing television broadcasting (and its regulation) can be partly due, on the one hand, to the difficulties in identifying the

cultural factors salient in the specific nation(s) or region(s). Yet on the other hand, it also can be partly due to the unclear linkage between national culture and the practice of television broadcasting, which was created by the complexities in the operation and regulation of the television broadcasting, especially in those countries where television broadcasting was introduced and developed by Western influence.

It is in this changing context that more recent studies adopt the concepts of cultural affinity and geographical proximity in explaining and comparing television broadcasting in a broader context, that is, in the process of the regionalisation and globalisation of television with the advent of new broadcast technologies. For example, by relating television structure to programme exchanges in the Greater China region - mainland China, Hong Kong, and Taiwan - Chan (1996) addresses the economic liberalisation and political control at the cultural level.

## 2.8. Conclusion to Chapter Two.

In their report on the future of the audiovisual industry in Europe, Lange & Renaud (1989) summarised the role of the State in the development of the audiovisual (mainly television) industry (p.133-139).

1. The distribution of resources.
2. Protecting the public service.
3. The definition of a cultural policy.
4. The definition of an individual policy for the

audiovisual sector.

5. The promotion of internationalisation.
6. Overseeing the conditions for free competition.
7. Safeguarding pluralism and public order.

While this summary was made with regard to technological development of new media, it, nevertheless, provides a wide range of State responsibilities in television broadcasting. These responsibilities are related to a number of factors which have affected the State's role in television broadcasting.

The review of different aspects of State control over television broadcasting clearly shows that the traditional role of the State, which is the allocation of the airwaves, has become wider and more complex; firstly with the growing political, cultural, and social influence of television on the society, and secondly, with the introduction of the new technologies. The abundance of television channels created by the new broadcast technologies has led to deregulation and privatisation in many countries, which was based on political, economic, and/or cultural justifications. At the same time, this also led to the traditional cultural rationale for television broadcasting policies to be challenged and changed, invariably placing the State in a more complex position caused by the larger militant broadcasters.

State control is recognised as the best way of guaranteeing that television broadcasting does not become an instrument of narrow sectional interests (Hughes, 1988:49). In reality, however, the narrow sectional interests have tended to be the

government itself for various political or economic reasons. This has been particularly so in the Western European countries with the emergence of cable and satellite television, which has led many nations to deregulate the State's control asserted since the beginning of the television era in the 1950s.

.. public broadcasting is essentially a state agency, so thoroughly dependent upon favorable government support .. that to speak of it as autonomous and journalistically free is ridiculous. ..public-service broadcasting corporations are all essentially arms of government. (Rowland, 1991:329-330)

This comment summarises the State's inevitable intervention in television broadcasting. Although the comment is based on the public service television in Western Europe, similar contentions can be found in the case of other continents, such as Asia, Latin America, Africa, and North America. However, it has to be emphasised that the simple assumption of inevitability of State control in other countries, which is based on general trends in a specific group of nations, may be an oversimplification and ignores other important variables salient in many other nations. This is particularly true if we recall from the previous chapter that the issue of the State's control over television broadcasting is not a matter of absolute absence or total control, but of the extent to which the State control is exerted in a specific context of changes. A no less important aspect of assessing State control is that this has to be understood in a continual flux of time.

The fundamental questions raised in this chapter are: what factor(s) have been most important in regulating television broadcasting, and why?; to what extent have those factors affected the State's control?; and if the State's intervention is inevitable, to what extent has the State's control been exerted and justified? The answers to these questions lie in the identification of the contexts in which regulatory framework of television broadcasting in a specific country has been shaped and developed.

Another important question raised in this chapter is how the State as a main regulator has maintained its relationship with television broadcasters as regulated, and how it has been reflected in regulatory practice. These questions require a thorough identification of the various factors, such as political, economic, and cultural, and other types of constraints imposed upon television broadcasters, on the one hand, and the State's operational control over television broadcasters' daily activities.

The major issues reviewed in this chapter help establish a conceptual framework for identifying the role of the State in television broadcasting, both at an individual (national) and comparative (regional) level. At the individual level, technological, political, economical, and cultural factors are all intertwined, in one way or another, affecting the role of the State in television broadcasting. Therefore, it is appropriate to locate such factors in a broader discussion of



the State's role in television broadcasting, rather than isolating any of those factors.

Also, at the comparative level, more emphasis has to be put on an analytic comparison which encompasses the influential factors (political, economic, and cultural), affecting the State's control over television broadcasting, rather than on a simple descriptive comparison of the systems and structures of television broadcasting and their regulations. The issues highlighted in the review of the State's control over television broadcasting provide overall conceptual bases of the research design which will be detailed in the following chapter.

## **PART TWO: Research Framework.**

### **Chapter Three - Research Design and Methodology.**

This chapter provides the overall research plan designed for this study. It specifies the major objectives of the study and outlines the research methodologies employed. These are followed by the major research plan which specifies the structural and conceptual framework of the research design. Finally, it also addresses the limitation of the study.

#### **3.1. Aim and Scope of the Study.**

This study is concerned primarily with how the State has controlled television broadcasting in the three selected countries - Hong Kong, Japan, and Korea - over time. The broadest aim of this study is to analyse and compare the role of the State in television broadcasting in the three countries by identifying the degree and mode of the State's control. In keeping with this aim, the research was designed to

1. examine the context in which the regulation of television broadcasting has been established and developed,
2. evaluate the relationship between the State and television broadcasters, and
3. analyse the State's regulatory practice in the operation of television.

This aim is explored through the three conceptual frameworks; contextual, relational, and operational control, which are in line with each of the research objectives specified above. In dealing with each of the objectives, the following specific research questions are addressed.

By examining the context of television regulation and the framework within which television broadcasting has operated, the answers to the questions 'how has the State regulation been established and developed?', and 'what have been the dominant factors which affected the regulatory changes, if any?', will be sought.

The evaluation of the relationship between the State and television broadcasters specifically addresses these questions: 'how has the State maintained its relationship with the television broadcasters?'; 'how has this relationship been perceived by the television broadcasters?'; and 'what have been the factors which have influenced the relationship?'. .

The analysis of the operational practice of regulation addresses the questions of 'to what degree, and under what mode, has the State exerted its control over television operation and programming?'. .

### 3.2. Methodological Overview.

This study takes a combined descriptive and analytic approach. Since its ultimate aim is to analyse and compare the degree and mode of the State's control over television broadcasting in the three countries, it is necessary to first describe the main features of the State's control over television broadcasting in each of them. Then, in order to evaluate the similarities and differences salient in the three countries as a whole, the second part of this study is devoted to the indepth analysis of those features by comparing the degree and mode of State's control over television broadcasting.

The main source of data was gathered from the analysis of the academic literature, government documents and company reports. Although there may be a greater amount of material on each country's television broadcasting and its regulation than was consulted, access to these materials was limited in part by the proportion available of these works translated into English.

However, this really was only a problem, and a minor one, with Japan. The researcher could read Korean material in its original language (Korean). In the case of Hong Kong, although its official languages are Chinese and English, English is the primary language used in many fields, such as commerce, banking, trade, and the law courts. And, the majority of Hong Kong materials collected were either in English, or in English and Chinese combined. Virtually no materials were written

solely in Chinese. In the case of Japan, the problem was initially overcome by consultation of an extensive collection of English material which contained the majority of information required. Despite this, some of the issues, which were not fully covered in English material, required a consultation to the material written in Japanese. In such cases, although it was very few, the information was translated by a Japanese native speaker. Overall, however, this was a minor problem, and the researcher was able to maintain a balance in the amount and quality of the information.

The emerging issues raised during the initial data collection, analysis and interpretation, needed to be clarified to a greater extent. In order to further examine and clarify any questions about the role of the State in television broadcasting, a wide range of indepth interviews was conducted in a series of field trips to the countries involved. These included interviews with senior officials in the State regulatory and executive bodies, senior staff in the operation and programming departments in the television stations, and researchers and academics.

The purpose of the interviews was to find out how the role of the State has been reflected and perceived in each of the different bodies; regulators, television broadcasters, and media analysts. Interviews also helped to obtain detailed information on current issues on the development of each television broadcasting system - free-to-air, cable, and

satellite - and to provide some insights into the future directions and implications.

This was done through the field trips. In order to concentrate on each of the three countries, rather than three countries all together, separate trips were made rather than one long trip. The first field trips were made in 1994 to Japan and Korea, and in mid-1995, to Hong Kong. However, due to the significant changes of television broadcasting in both Japan and Korea in 1995, a follow-up field trip to these countries was made in early 1996.

Although the defined scope of the research does not extend past December 1995, every attempt has been made to ensure that the information is as up-to-date as possible. This has been particularly the case with Hong Kong and Korea, where the television broadcasting landscape has been in a constant flux, because of attempted changes to the Broadcast Law in 1996. Due to its comparative nature, special attention was also given to maintain an equal balance of up-to-date information on television broadcasting in all three countries. For this reason, the information about the significant changes which occurred in 1996 was obtained through personal correspondence with contacts made in government and the broadcasting industry during the field trips, and this additional material was included in the study during the final writing-up.

### 3.3. Design of the Major Conceptual Framework.

Since the ultimate aim of this study is to compare the role of the State in television broadcasting in the three countries, it first looks at the State's control over television broadcasting in each of the three countries as an individual case study. Once the mode and degree of the State's control are identified in each of them within the same framework, it is possible to have better comparison in all three countries as a whole. This is done under the three specific structural frameworks: contextual, relational, and operational.

- . Contextual analysis: Regulatory history and structure.
- . Relational analysis: State's relationship with television broadcasters.
- . Operational analysis: Regulatory practice over television operation and programming.

Under these broad frameworks, the study first examines the structural features of the State's regulatory bodies in each country, and then examines the relationship between the State and the television broadcasters. It is followed by the analysis of how the relationship has been reflected in practice on the two specific areas of television broadcasting; operation and programming. In order to maintain consistency, the framework which is used in each of the three countries will be maintained for the comparative purposes.

### 3.3.1. Contextual Analysis: the State and Regulatory History.

This part reviews the historical development of the regulatory structure in television broadcasting. It specifically looks at two contexts; the context in which the regulatory structure has been shaped and developed prior to the technological development, and the context after the introduction of new broadcast technologies. Any salient features affecting the changes of regulatory structure are identified. For this purpose, Noll's (1986) conceptual framework for examining the features of the intermediating agency will be used as a theoretical guide with some of the modification. Although his framework was based primarily on the political context of the communications sector in general, it is a useful way of identifying the regulatory structure and the relationship between the State and the regulatory agency in the area of television broadcasting. They are;

1. Who regulates?
2. What is regulated? (What aspects of broadcasting behaviour is subject to the regulation?)
3. Does it have power to implement its decisions?
4. What is the degree of its independence from the government?

Throughout the contextual analysis of television regulation, any significant changes or alterations of these features will be identified.



### 3.3.2. Relational Analysis: The Relationship between the State and Television Broadcasters.

Once the context of development and changes of regulation of television broadcasting are identified, it is appropriate to examine how the State has maintained its relationship with the television broadcasters, and how the relationship has been perceived by the television broadcasters. This relational approach provides an overall examination of the mode in which the State has exerted its control over television broadcasters. The relationship between the State and the television broadcasters is to be better understood if the degree of the closeness of the relationship can be estimated. In estimating the relationship, three indicators are used. They are: the availability of the mediating regulator, if any; the level of interests shared by both the State and television broadcasters; and the degree of constraints on television broadcasters.

#### *The Availability of Mediating Regulator*

This study looks firstly at whether any mediating regulator, which, separate from the major State regulator responsible, has a special responsibility to which television broadcasters are answerable, is available in each of the three countries. Once this is identified, the functions of the mediating regulator(s) are examined, focusing on whether they affect the relationship between the State and television broadcasters.

## *Level of Interests Shared by the State and Television Broadcasters*

A special focus is on whether the State's interests in television broadcasting have been in line with that of the television broadcasters before and after the emergence of new transmission technologies, that is, cable and satellite television.

## *The Degree of Constraints on Television Broadcasters*

The analysis of the degree of constraints upon television broadcasters is based on the three types of constraints proposed by Gurevitch & Blumler (1977): legal, normative, and structural. However, the term 'moral' is used instead of 'normative', because it is more widely applicable to explaining the constraints in the countries studied. While being aware of the boundary problem of making a distinction between direct and indirect constraint, Gurevitch and Blumler limited the terms to direct political constraints, separating other constraints such as economic, as indirect constraints. Furthermore, given that their major interests were on the relationship between the media in general and the political institutions, some modification was necessary for this study in order to better identify the degree of constraints imposed, implicitly or explicitly, upon television broadcasters. For this reason, the terms in this study are more broadly used incorporating political, economic, and cultural constraints. The definition of each of the three constraints are as follows.

- a. Legal constraints: All rules and regulations that define the rights and obligations of television broadcasters that are ultimately enforceable by executive and judicial arms of the State. These rules and regulations are normally set in the laws relative to television broadcasting, such as Broadcast Law, Telecommunications Law, and Cable Law.
- b. Moral constraints: Expectations of political and public service by television broadcasters for which they may be held socially and culturally accountable without falling under the direct control of the State.
- c. Structural constraints: The degree to which formal or semi-formal linkages may be forged between television broadcasters and the State. The State, for example, may be involved in the organisation of television broadcasters through ownership or financial contributions. Linkage may also be established through a tradition of political support for the government's goals and policies.

It is to be stressed that these constraints are not mutually exclusive. On the contrary, like in all laws, the content of each constraints may overlap. While the precise differences between each of the constraints are beyond the scope of this study, some of the major differences need attention. This is particularly true in distinguishing legal constraints from moral constraints, mainly because the legal constraints include moral elements and principles.

Some of the explanations of the difference between them can be found in the broader explanation of the difference between the law and morality. Legal constraints, which are concrete, are

obligatory, whereas moral constraints, which are general and abstract, possess the possibility of wide flexibility in measuring based on conscience and persuasion (Stumpf, 1966). In this sense, the legal constraints are minimum moral standards, whereas moral constraints envision ideal types of operation. The laws regulating television broadcasting in many countries require television broadcasters to observe moral principles. As a consequence, some parts of the laws might be considered morally valuable, some morally harmful, and other parts may have no moral content at all.

Based on the evaluations of each of the three indicators - the availability of the mediating regulator, the degree of constraints, and the degree of confluence in the mutual interests - the degree of the closeness of the relationship between the State and television broadcasters are identified. In doing so, the following terms are used to determine the relationship between the two. Although each of these terms may overlap, they are distinguishable in the ways in which they are created and maintained.

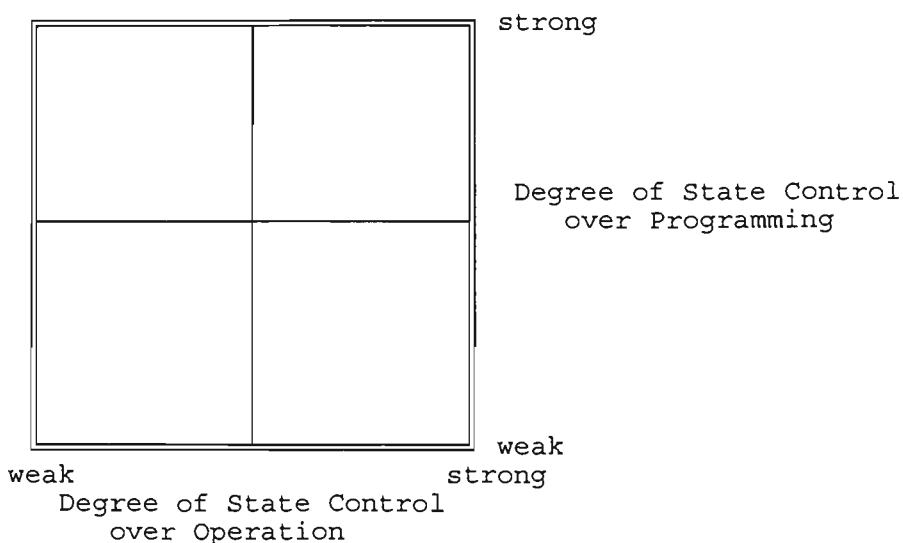
- . Enforced relationship: The relationship is normally enforced by the State, which decide the terms and condition in its own way. The State exercises compulsion into television broadcasters.
- . Open relationship: The relationship is maintained without any enforcement upon television broadcasters. No compulsion exists, and normally, the process is done in a transparent and democratic way.
- . Closed relationship: The process is maintained in more subtle and secret fashion. The State

can enforce restrictions, when it needs.

### 3.3.3. Operational Practice: The Degree of State's Control over Television Operation and Programming.

The study analyses the operation of regulation in detail, by looking at what has been actually done in terms of regulatory performance and its process. Also, this is further evaluated by conceptualising the degree of the State control over television broadcasting in two specific areas: operation and programming. For this, the degree of State control over both operation and programming are placed in a diagram which consists of two continua, each with 'strong' at one end and 'weak' at the other (Diagram 3.1.). The vertical axis represents the level of State control over programming, and the horizontal axis represents that over operation.

Diagram 3.1. - Two dimensions of State control over television broadcasting.



The terms 'strong' and 'weak' are used to indicate how the State control has been exerted within the broad conceptual framework. The term 'strong' is defined as where the State's control is exercised with the highest restrictions and enforcement, whereas 'weak' is the opposite term used when the State's control is exercised at a minimal level. Although these terms are not fully descriptive enough to estimate the precise quantitative degree of State's control over television broadcasting, they provide an analytic framework which indicates the extent to which the State control has been exerted.

The principal use of the diagram based on the two dimensions serves as a device for grasping the general trends of State control over time and also for analysing the extent to which the television broadcasters have been subject to State control. However, it has to be stressed that the purpose of using this diagram is not to quantify, but to conceptualise and illustrate the State's regulatory performance over time. Although it may lack quantitative basis, the diagram is used as a way of presenting the variations of State's control over operation and programming, and to facilitate an assessment of performance.

The variable is State intervention. A number of factors are likely to be associated with the performance of the television broadcasters in operation and programming, regardless of its institutional structure. The degree of State control is

assessed on the basis of the following parameters of each dimension.

#### *State's Control over Operation*

- a. Management: Personnel affairs  
(example: appointment of directors)  
  
Financial activities  
(example: obligation to submit business,  
financial report, etc.)
- b. Ownership: Foreign ownership  
  
Cross-media ownership  
  
Foreign investment  
  
Restrictions on entry

#### *State Control over Programming*

- a. Censorship
- b. Enforced code of values for programme standards
- c. Limits on imported material
- d. Limits on broadcasting time
- e. Limits on advertising time
- f. Obligation to broadcast a minimum of education or  
cultural programmes

#### 3.4. Limitations of Study.

This chapter has described the methodological overview and research framework employed in the study. Within the framework of this study, it was not possible to cover all aspects of the

State's control over television broadcasting over time, such as control over technical matters. The main concern is how the role of the State has been manifested in the development of television broadcasting and how it has changed in the context of the development of new media technologies. This is mainly based on the information relative to key issues selected. In the contextual analysis, despite the attempt to collect as much archival material as possible, gathering all primary information on television broadcasting in each of the three countries was impossible due to the vast years to cover. This was particularly true of the material on the television broadcasting in the earlier developmental stage.

Despite these limitations, on the basis of the research framework established in this chapter, the following chapters (PART THREE) present the State's control over television broadcasting in each of the three countries concerned, starting with Hong Kong.



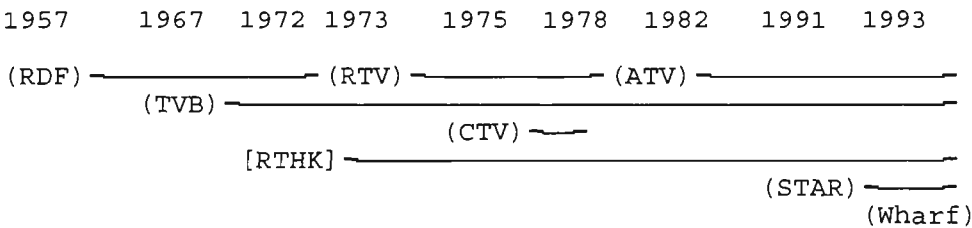
**PART THREE: Television Broadcasting and Its Control in  
Individual Countries; Hong Kong, Japan, and  
Korea.**

PART THREE (Chapter Four, Five, and Six) is devoted to the examination of State's control over television broadcasting in each individual country. It serves as a basis for the comparisons to follow in the PART FOUR, by providing a description and analysis of; how television broadcasting and its regulatory structure have been developed, how the State has maintained its relationship with television broadcasters, and how the regulatory practice has been performed in operation and programming.

Chapter Four - The Role of the State in Television  
Broadcasting in Hong Kong.

Television broadcasting in the British colony of Hong Kong started as a commercial operation by Rediffusion Hong Kong (RHK, later RTV), the UK-controlled cable subscription service. Since wireless television started in 1967, the dominant structure of commercial television broadcasting has been operated by two broadcasters, Television Broadcasts (TVB) and Asia Television (ATV), these were joined by a government broadcaster (Radio Television Hong Kong: RTHK). The basic structure has remained unchanged until now (Table 4.1.).

Table 4.1. - The development of television broadcasting structure in Hong Kong.



- ( ): Commercial Broadcasting
- [ ]: Government Broadcasting
- RDF: Rediffusion, Hong Kong (cable television)
- RTV: Rediffusion Television
- ATV: Asia Television
- TVB: Television Broadcasts Ltd.
- CTV: Commercial Television
- RTHK: Radio Television Hong Kong
- STAR: Satellite Television Asia Region
- Wharf: Wharf Cable

The circumstances created by the 1984 Sino-British Declaration, which confirmed that China would take over Hong Kong in 1997, have major implication for the development and operation of television broadcasting in Hong Kong. Understanding of this fundamental phase, the reverting of Hong Kong to Chinese

sovereignty from July 1997, is critical to the development currently unfolding and affecting every aspect of life in Hong Kong, including television broadcasting. At the same time, the introduction of new broadcast technologies starting with a regional satellite television service (STAR-TV) and a local subscription television (Wharf Cable) in the early 1990s provided the Hong Kong Government with an opportunity to serve its political and economic interests in making Hong Kong a media hub in the region.

This chapter first looks at the historical development of the State's regulation on television broadcasting in Hong Kong. It then provides an overall examination of the relationship between the State and television broadcasting over time, with a special focus on the periods before and after 1984. This will be followed by an analysis of the degree of State control over television broadcasting in the areas of operation and programming.

#### 4.1. Regulatory History of Television Broadcasting in Hong Kong.

One of the characteristics of television regulation in Hong Kong has been its apparent freedom of broadcasting, which has operated within a market structure whose parameters were set by the government regulators (Chan J, 1996). The apparent freedom, however, masks a high degree of regulation by intrusive prescription in the major areas of television broadcasting. During its developmental process, modifications

to the regulatory structure of television broadcasting in Hong Kong were initiated by government in the form of reviews and recommendations which were carried out by government-commissioned boards, committees, or working groups.

The Government's attempt to modify its regulatory structure in the development of television broadcasting to make it accountable both to the television broadcasters and to the public may have originated in the traditional nature of the colonial government. Yet, on the other hand, as this section reveals, a closer look at the degree and mode of State control over television broadcasting in Hong Kong shows that more rigid and stricter regulations were continuously imposed under the rationale of safeguarding the public interest.

#### 4.1.1. Current Major Regulators.

Currently, State control over television broadcasting in Hong Kong is exercised by two major bodies: the Recreation and Culture Branch (RCB) of the Hong Kong Government and the Broadcasting Authority (BA). While the former is a policy maker, the latter is an administrative regulator which can exert its executive power. Some of the major responsibilities of the Broadcasting, Entertainment & Administration Wing of the RCB are in Table 4.2..

The Broadcasting Authority is a statutory body established since 1987 under the Broadcasting Authority Ordinance. The

Office of the Commissioner for Television and Entertainment Licensing (CTEL) acts as the principal executive officer of the Broadcasting Authority. The Broadcasting Authority is responsible for the control and regulation of television and sound broadcasting in Hong Kong, including subscription television, through provisions in the Television Ordinance, the Telecommunication Ordinance, and the Broadcasting Authority Ordinance (BA, 1995).

Table 4.2. - Responsibilities of RCB.

Division	Responsibilities
Broadcasting	a. Broadcasting policy, including related legislation and regulatory framework b. Liaison on policy matters with broadcasters c. Housekeeping for RTHK & TELA d. Liaison with TELA on business matters of the Broadcasting Authority
Development	Policy on the development of broadcasting, including subscription and satellite TV
Entertainment	a. Entertainment legislation, including film censorship b. Policy on Film censorship

Source: RCB Organisation Chart, 1995c.

It has two sub-committees. The Complaints Committee receives complaints about broadcasting matters directly from the public, reviews them, and then makes recommendations about complaints to the Broadcasting Authority. The Broadcasting Authority exercises its executive power in various forms, such as measures ranging from issuing an advisory letter to broadcasters to banning programmes (see Table 4.6.). The Working Group reviews codes of practice (programme, advertising, and technical standards) and, if necessary, recommends amendments to the Authority. The Broadcasting

Authority also administers the Television Viewing Group Scheme in 19 districts to monitor public opinions on television standards (BA, 1995).

Table 4.3. - Regulators and relative laws and decree.

Regulator	Executive Officer	Relative Law & Decree
Television Authority	Television Advisory Board (1967-1987)	Television Ordinance (1964)
	Commissioner for TV & Films (1972-76)	Government Announcement (1972)
Broadcasting Authority	Commissioner for TV & Entertainment Licensing (1987- )	Broadcasting Authority Ordinance (1987)

The Governor-appointed members of the Broadcasting Authority consist of three government officers and nine non-official members drawn from the public. Within its organisation, however, there is a significant overlap in membership, with the majority of the members serving on one or two sub-committees.

#### 4.1.2. Regulator in the Burgeoning Stage, 1957-1963.

Prior to examining the regulatory history of television broadcasting in Hong Kong, it is appropriate to briefly address some of the backgrounds of the UK's colonial broadcasting policy which shaped and influenced the broadcasting structure and its regulation in its former colonial countries, including Hong Kong. The regulatory basis of television broadcasting in Hong Kong was rooted in the UK's broad colonial policy on broadcasting in its heydays in the 1930s and 1940s: the transfer of BBC structure, the extension of BBC services to

expatriates, and the development of local broadcasting services to meet the needs of colonial administration (Wedell, 1980:15). While having recognised the difficulty that the Empire Service of the BBC could not serve the local needs of the colonies, the Plymouth Committee of 1936 in the UK concluded that the colonial government could not be responsible for all programmes broadcast, and emphasised that the government would have to be the controlling body (Wedell, 1980). Hong Kong was no exception.

Prior to 1964 when the Television Ordinance was introduced, the cable television broadcaster, Rediffusion Hong Kong, was loosely regulated under the Director of Information Services of the Hong Kong Government, which also was responsible for controlling and disseminating information. Indeed, given the fact that Rediffusion, as a locally controlled subsidiary, was a cable television service operating throughout the British colonial territories, it would not have been difficult for the Colonial Government to regulate it.

Following a study by Government Committee on the future of television in Hong Kong in the early 1960s, which considered and then announced the introduction of commercially-operated wireless television, the regulating functions on television which had been exercised in the past by the Director of Information Services were in the main transferred to the newly established Television Authority. Although the Director of Information Services, ex-officio, was appointed to the

Television Authority, this was a significant structural change in formulating a regulatory framework.

#### 4.1.3. Television Authority and Television Advisory Board, 1964-1987.

The regulatory framework of television broadcasting was established in 1964 when the Television Ordinance was enacted in order to provide guidelines for programming of wireless television services and to define the basic functions of the Television Authority (TA). Placed within the Government structure, the major function of the Television Authority was to administer the Television Ordinance by securing appropriate standards of television broadcasting, particularly regarding the contents of programmes and technical matters (Hong Kong Government Press, 1965). It was assisted by the Television Advisory Board (TAB). The legislative foundation for the detailed regulation, such as Television Regulations and Codes of Practice, were also established in the same year.

The Television Advisory Board consisted of three public officers and two (increased to three from 1973) members drawn from the public, all appointed by the Governor. Its functions were to advise the Television Authority, to submit proposals and recommendations to the Governor-in-Council with regard to standards and licensing matters, and to conduct enquiries (TAB, 1973).



From its inception in 1964 until 1973, the efficient functioning of the Television Authority was hindered by the fact that a separate regulatory structure had been responsible for controlling the existing cable television service provided by Rediffusion. Since Rediffusion was issued an exclusive cable television licence under the Telecommunications Ordinance in 1957, the control and the programme standards of Rediffusion were administered by the Director of Information Services (TAB, 1971). This means that while the wireless television broadcaster, TVB, was controlled by the Television Authority and governed by the Television Ordinance, Rediffusion was controlled by the Director of Information Services and governed under the Telecommunications Ordinance.

Not surprisingly, this structure of 'dual regulators for television' has been the major concern of the Television Advisory Board. Its strong claim to have one set of regulations for all television broadcasters met a negative response from the Government and it had to wait until 1973 when Rediffusion's license expired and its cable television service was terminated. One of the underlying implications behind the Government's refusal to have one set of regulation was to maintain and maximise the British influence until the Rediffusion's licence expired.

Further major structural changes occurred in the early 1970s arising from the recommendations made by the Working Party on the Future of Broadcasting in 1971, which included a

recommendation that there should be two additional wireless television licensees, one providing both English and Chinese services, the other providing a Chinese service only. As a result of the termination of Rediffusion's cable television service in 1973, the existing Rediffusion, renamed as Rediffusion Television (RTV), was granted the licence to operate wireless services in English and Chinese, while Commercial Television Limited (CTV) was licensed to provide Chinese service only.

The termination of Rediffusion's cable service also meant that television broadcasting was placed under the control of one regulator, the Television Authority. The only exception to this was the Radio Television Hong Kong (RTHK). It was established in 1972 as a Government-owned and operated television service, in order to provide the public with information on the Government's activities and policies (Director of Broadcasting, 1974). The RTHK-produced programmes, such as current affairs and public relations, were carried by the commercial television broadcasters, as a part of their licence obligations. Its major role was to provide a two-way channel of communication between the Government and the community, placing major emphasis on high-quality programming and minority services (RTHK, 1993).

It is worth noting that although the Television Authority was mainly responsible for the contents of programmes and technical matters, its role was limited. For example, the main role of the Television Authority Monitoring Unit was merely monitoring

broadcasters' performance only within the TA, with no actual power to impose restrictions and actions on programmes or against broadcasters.

Realising the growing popularity of television and its influence on society, together with anticipated increase in the number of channels from 1973, the Government established the Television and Film Standards Division led by the Commissioner for Television and Films (CTF). It was responsible for carrying out the functions of the Television Authority; exercising policy control over commercial broadcasting; implementing Government policy; and all matters relating to film censorship (TAB, 1974).

The creation of CTF appeared to be a restructuring of the regulatory framework by separating functions and allocating advisory function to the Television Advisory Board and the administrative functions to the CTF. The Television Authority was transferred to the Secretariat for Home Affairs in 1972. However, the main functions of the Television Authority remained unchanged until it was replaced by the Broadcasting Authority in 1987.

#### 4.1.4. Report of the Broadcasting Review Board, 1985.

Following the 1984 Sino-British Declaration regarding the future of Hong Kong, a major review of the broadcasting structure was commissioned by the Broadcasting Review Board

(BRB) later in the same year. The major tasks of the Board were to review overall performance of regulation and television broadcasting in Hong Kong, and to recommend long-term policies on television broadcasting after 1988 when the licences of the commercial broadcasters were to expire. The major recommendations the BRB made were (BRB, 1985a);

- . The RTHK to be an independent broadcaster with its own Board of Governors.
- . TA and CTEL to be replaced by Broadcasting Authority and Complaints Tribunal.
- . Ownership of a commercial broadcaster to be independent from its 'mother' company.
- . Royalty to be based on gross receipts rather than net profits.
- . More diverse programming and stricter restriction on advertising.

One of the strongest recommendations made by the BRB was in regard of the degree of control, that is, it urged the adoption of stricter control by the regulator. The Board believed that the administration of the television industry had not been effectively performed mainly because CTEL had been required to perform too many 'conflicting roles'. The BRB noted the main reason behind this ineffective role has been due to 'soft' regulation exercised in the past.

... CTEL has sought,..., to fulfil his function by persuasion. ... greater and more effective control could have been exercised had a more robust approach been adopted. (BRB, 1985b:54)

Nurtured and developed in a free enterprise system as in other sectors which were introduced by the colonial government, the existing commercial broadcasters saw this as nothing but an attempt at coercion and intervention. The overall reaction of commercial broadcasters to the Report was one of disappointment (Administrative Services & Information, 1986). For example, TVB, the leading commercial broadcaster, captured the broader reaction and sentiments of television broadcasters in its 'Observation Report' prepared in response to the BRB Report.

The BRB's interventionist and paternalistic outlook is totally foreign to the Hong Kong way of life. The recommendations that emanate from such a questionable outlook are arbitrary, unrealistic and unworkable. A wide cross-section of the community, ... have voiced criticism that the BRB's recommendations were 'a recipe for disaster' and that their implementation would 'represent interference in both the public's freedom of choice and Hong Kong's free enterprise system. (TVB, 1986:ii)

Despite the strong opposition from the commercial television broadcasters, the majority of BRB's recommendations were reflected and implemented in the revised Television Ordinance and Broadcasting Authority Ordinance in 1987. The only exception to this was the recommendation on the future of the RTHK. This issue will be further discussed later in Section 4.2.4..

#### 4.1.5. Broadcasting Authority, 1988- .

The creation of the Broadcasting Authority brought a significant change in the regulatory structure. Unlike its

predecessor, the Television Authority, the Broadcasting Authority was a statutory body established under the Broadcasting Authority Ordinance, and was empowered to function in a broader area of broadcasting and to coerce its executive power. This is in stark contrast to the Television Authority whose main function was to advise and influence the television broadcasters by administering the Television Ordinance and securing appropriate standards of programmes and technical matters, rather than coercing them with executive power.

Another major change was the creation of the Complaints Committee which handles complaints from the public and then, through the Broadcasting Authority, takes action on broadcasting matters. Apart from its legal authority on imposing various measures, in one sense, the Complaints Committee also plays a mediating role between the public and the broadcasters. This clearly shows the Government's intention to create an apparent channel by which it can accommodate public interests in a democratic way. Yet, on the other hand, the television broadcasters have seen the Complaints Committee as a channel which may damage their freedom of programming and restrict the quality and creativity of their programmes.

It is also interesting to note that the role of the Complaints Committee is limited to commercial broadcasters, leaving RTHK, the government broadcaster, outside its jurisdiction. While the Complaints Committee is responsible for dealing with complaints on broadcasting from the public (BA Ordinance, Section 10), the

RTHK wants its audience to lodge complaints directly to them (RTHK, 1995). In such a situation, it would be very unlikely that the Broadcasting Authority does not receive complaints against RTHK. These are either disregarded or simply are not proceeded with, because there is no obligation on them to do so.

This clearly indicates that there is no mechanism for linking the two regulating bodies. The fact that RTHK is not a fully-fledged broadcaster in its own right might justify different regulatory treatment. The regulatory treatment of the RTHK is also unidentified in the data about complaints shown in the Broadcasting Authority's annual reports (RTHK has not been even mentioned, see Table 4.6.). One possible interpretation under these assumptions is that the RTHK, from its inception in 1972, has not been subject to the control by regulators. Therefore, it can be argued that the Government would not want its own television broadcasting to be scrutinised by the public as it is the dominant power in the Colony.

It is to be noted that the Hong Kong's uncertain future, as reflected in the Joint Sino-British Declaration in 1984, has been an on-going and influential factor in the making and revising of the regulatory structure. With the introduction of new broadcast technologies in early 1990s - a regional satellite television service (Satellite Television Asian Region: STAR-TV) in 1991 and a subscription television service (Wharf Cable) in 1993, economic deregulation prompted a broader

broadcasting policy of 'creating diversity' with the aim of making Hong Kong a media hub in Asia. The increasing pressure on the Hong Kong Government to maximise its political and economic interests in Hong Kong after 1997 has been reflected in the attraction of foreign broadcasters.

#### 4.1.6. Policymaking Process on Broadcasting in Hong Kong.

Hong Kong is essentially an administrative State. As a British Crown Colony, Hong Kong is administered by the Hong Kong Government, in which the Office of Governor is central (Harris, 1988). The ultimate policy-making power on television broadcasting is the Governor and his Executive Council, whose members are appointed by the Governor. They also make final decisions over the regulation and licensing of broadcasting.

The consensus-building within the colonial regime is a commonplace practice. In this process, the role of the Legislative Council is minimal because it is a 'bureaucratic' rather than a 'legislative' arm of the machinery of Government. However, since the two highest ruling bodies, the Executive Council and Legislative Council, are not empowered to check and balance the Governor, they are at best the Governor's advisory bodies (Chan & Lee, 1990:126). Executive Council is advised by the Broadcasting Authority and Recreation and Culture Branch.



#### 4.2. The Relationship between the State as Regulator and Television Broadcasting in Hong Kong.

'The high degree of freedom is a result of the government's exercise of self-restraint (Kuan & Lau, 1989).' This statement appears to indicate that despite the Government having ultimate power of control over television broadcasting by various interventive means at its disposal, such as censorship, they have been rarely used. As this section reveals, however, this does not lead us to believe that the relationship between the State and television broadcasters in Hong Kong has been maintained in an open, or that the Government has not sought to exercise control.

On the contrary, the gap between the two has been rather significant in that their relationship has been one-sided, a situation mainly determined by the Hong Kong Government who has continuously felt the need for creating a perception of maximum freedom (including the perception of democratic 'uncontrolled' broadcasting) on the one hand, and its own desire and necessity to maintain control over television broadcasting on the other.

##### 4.2.1. The Loosely-Controlled Cable Period. (1957-1966)

Coupled with the Hong Kong Government's monopoly of the power to administer Hong Kong, television broadcasting in Hong Kong was introduced by a colonial broadcaster (Rediffusion Hong Kong) in 1957 as a major tool for maintaining the colonial status quo. Being largely a luxury commercial service, mainly

for British expatriates and well-educated Chinese during the period of social instabilities caused by the influx of refugees from mainland China in the 1950s, the Rediffusion initially covered the densely populated urban areas and later extended to the islands and suburban villages (Everest, 1978).

Undoubtedly, during this period, the relationship between the Colonial Government and its colonial broadcaster was close simply because the Rediffusion existed for serving the interests of both the Colonial Government of Hong Kong and the British expatriates. This was apparent from the fact that the large number of programmes on Rediffusion were either imported from the UK and the USA (Hong Kong Annual Report, 1959), or provided by the Government Information Services of the Hong Kong Government. This close relationship was maintained with minimal control over Rediffusion. Indeed, except with regard to the amount of advertising time, that is, 10% of the total broadcast time, no more than minimal control was needed, mainly because it was a subscription service and there was only a limited number of subscribers: for example, 4,000 in 1959 (Hong Kong Annual Report, 1959), 11,000 in 1961, 67,000 in 1966, 100,000 in 1968, and 63,000 in 1970 (Hong Kong Government Press, 1961; 1966; 1968; and 1970).

Initially started as an English channel until 1963 when a Chinese channel was added, the Rediffusion Hong Kong was loosely regulated under the Director of Information Services until it ceased its cable service and became a wireless

broadcaster in 1973. While the Rediffusion was subject to the conditions of the Telecommunication Ordinance which mainly specified the technical rules and standards, the regulation on the operation and programming was regulated by the Government (Director of Information Services) in a form of guideline.

#### 4.2.2. Different Regulator for Cable & Wireless Broadcasters. (1967-1972)

The first free-to-air (wireless) television broadcaster, Television Broadcasts Ltd. (TVB), was introduced in 1967. It was regulated by the Television Authority which was established under the Television Ordinance of 1964 in order to regulate television broadcasting in Hong Kong. It is interesting to note that, unlike the Rediffusion cable television service, which was modelled after British model, the Colonial Government adopted the US model for wireless television broadcasting rather than its own British model.

.. the Government has accepted that the industry is primarily of an entertainment nature, although it has important implications for public information and education. It has been .. a policy which we, as a Board, fully accept that subject to certain safeguards, the service should be commercially rather than publicly funded. (TAB, 1983:14)

It is also relevant to note that the television broadcasting (wireless) in Hong Kong was introduced with a relatively well-structured regulatory framework. The creation of the regulatory framework before the introduction of television is an important feature of the development of television broadcasting in Hong

Kong. This differs from the way television broadcasting was introduced in other countries -such as Korea, and indicated the strong interventionist and controlling desires of the Hong Kong Government.

The leftist riot in 1966/67 changed the government's communication policy turning more emphasis on the local community rather than maintaining the obsession with the politics of China (Kuan & Lau, 1989; Chan J., 1992). Indeed, prior to this, Chinese politics had dominated the news coverage, and political identity had rested with China rather than Hong Kong (Chan J., 1992:125). While considering the communication gap between government and people as a main cause for the riot, the regulator allowed more diverse programmes on television. This, however, did not mean the relaxation of State regulation. On the contrary, as the introduction of free-to-air (wireless) television led to a rapid growth in the ownership of television set - in 1972, for example, about 80% of households possessed television receivers (GIS, 1973) - and it was exerting a powerful and widespread influence on the society, the Government believed tighter control over television broadcasting was needed.

#### 4.2.3. The Period of Wireless Television. (1973-1987)

During the period of the tripartite structure of commercial television (1973-1978), which was created by the arrivals of two new entrants, RTV and CTV, the State's relationship with

television broadcasters was not significantly different from that in the early 1970s when there had been only one wireless television service (TVB). Indeed, the State's intention to exert stricter control over television was well illustrated in the experience of the short-lived CTV (1975-1978).

It is interesting to note that while the State expected CTV to offer programmes which would complement the overall programming pattern of other dual-channels operators, TVB and RTV (BRB, 1985b), the State also imposed strict programming obligation upon CTV. For example, the Television Ordinance required each of the three broadcasters to provide transmission facilities of up to four hours per day for Government school programmes, and of up to seven hours per week for Government public affairs programmes (TAB, 1977). Apart from these obligations which were equally imposed to all broadcasters, the newly licensed Commercial Television (CTV) was further required to broadcast two hours of instructional programmes each weekday evening, without advertisements (TAB, 1978).

From this, it becomes obvious that this restriction was a disadvantage to the CTV, which had only one channel. Unlike the CTV, other two dual-channels broadcasters could disperse the obligatory programmes into their two channels. Although CTV was allowed to make the instructional programmes by itself, these were mainly education programmes (RTHK, 1988). The disadvantage of the CTV was further evidenced in the average proportion of Government and education programmes in each of the three

stations: 34% on CTV, whereas only 3% on each of Chinese channels of TVB and RTV (TAB, 1978). Despite CTV's attempt to adjust the programme proportion with more emphasis on entertainment, the rapid increase in operational costs caused by competition amongst the three broadcasters, forced the CTV, the least experienced broadcaster, to cease its operation in 1978.

#### 4.2.4. The Effect of the Uncertain Future and New Broadcast Technologies on the Relationship. (1988- )

The 1984 Sino-British Declaration, which confirmed that China would take over Hong Kong in 1997, has invariably brought the Hong Kong Government growing problems. The Hong Kong Government has at its disposal a number of extraordinary discretionary powers, including ordinances and statutes that can be used to impose censorship and tight controls on information. However, the self-restraint of the Hong Kong Government evidenced in the non-use or limited use of these powers has been the result of the realisation that this would offend China (Polsky, 1994). This equally means that, the powers could have been used in ways that sought to win approval from China.

Since 1984, the Hong Kong Government's relationship with television broadcasters has been more affected by external factor, that is, the perceived threat from the Chinese Government, rather than by its own intention. Undoubtedly, the television broadcasters, like other media, for fear of their survival after 1997, had to keep in mind their future master.

As a consequence, they have accommodated China as the new political master, responding positively to China's active political co-optation, while they have become critical of the Hong Kong Government whose power is weakening (Chan J, 1992).

The self-restraint of both Hong Kong Government and television broadcasters, was gradually noted in the late 1980s, especially after the crackdown on China's pro-democracy movement in 1989, when the Chinese students and journalists demonstrated against the Government in the Tiananmen Square. The Hong Kong media, including television, criticised the Chinese leadership during their coverage of the movement. Having seen that Hong Kong's media was a powerful purveyor of public sentiment during the crackdown, it became clear to the Chinese leaders that they needed to be more alert and attentive to the power of the media, and its capacity to make trouble for China.

China's unpleasant experience with Hong Kong's response to the pro-democracy movement in 1989, changed its policy on Hong Kong from non-intervention to intervention (Lee, 1994). At the same time, it resulted in a cautious stance by both Hong Kong government and television broadcasters. In the case of the latter, this has been noted in their programming: programmes (news/reports and documentary) about China have been toned down (Sharma, 1989). Hong Kong Government also has become more cautious in making a decision/policy on broadcasting. One of the most vivid examples of this has been the discussion on the future of the government broadcaster, RTHK.

From its inception, the RTHK has not had its own television transmission facilities. Programmes provided by the RTHK and Government-owned Education Television (it was merged with RTHK in 1976), mainly news, current affairs, and public affairs programmes, have been broadcast daily through the facilities of commercial broadcasters under the terms of licenses granted to them. This indicates that the Hong Kong Government, from the very beginning of television broadcasting, has secured the advantages of having its own television broadcasting capacity without the necessity for capital investment associated with transmitting its programmes.

While this may be an economic way of imparting the government's information to the public, the obligation to broadcast government programmes imposed upon the commercial broadcasters has clearly raised a question about commercial broadcasters' programming independence. A practical justification behind this could be the complementary function of the RTHK. In other words, this allows the commercial broadcasters to focus on entertainment programmes while they can leave public affairs programmes to the government, saving production costs.

'For all broadcasters, there are certain responsibilities to be met in the community. If those are met by someone else, that, to some extent, relieves some of their responsibilities. RTHK has played an important role for the commercial broadcasters in this sense. If we did not have RTHK, TVB and ATV would not be able to get the news coverage they've been



doing in this market, and they would have to do much stronger job of news coverage (Interview with Senior Lecturer, Hong Kong Baptist University, 21/June/1995).'

When the Broadcasting Review Board of 1985 first recommended the privatisation of the RTHK, the reactions were mixed. While the commercial broadcasters welcomed the recommendation on the one hand, they raised a number of questions about its successful achievement as a public broadcaster. Although it has not been completely overshadowed by commercial television because of its indirect transmission of programmes through commercial channels during prime time, the RTHK has had difficulty finding its place in television broadcasting in Hong Kong. Growing concern about its editorial independence together with its perception of being a 'mouthpiece' for the government, has led to uncertainty about the future of RTHK.

In the spirit of the transition phase of Hong Kong from British to Chinese rule, the Hong Kong Government has adopted a compromise approach to arrangements regarding the future of RTHK. However, since this represented a major restructuring of Government, the Chinese Government was consulted in 1992, but no agreement was reached (Personal Correspondence with Executive Officer, RCB, 11/8/1995). Chinese influence has been implicitly and explicitly evident. What Chinese authorities are concerned about is that the privatisation of the RTHK would deny them in the post-1997 Hong Kong (Special Administrative Region), a crucial means of disseminating official government

information (Fung & Lee, 1994; Mosher, 1992). As a result, RTHK has failed to become an independent broadcaster and its future remains unclear.

Given the attitude of the Chinese Government regarding ownership of property by the government, that is, people's government, not government within the State, the Chinese Government may be blocking the corporatisation or privatisation of the RTHK because of the loss of ownership and its potential usefulness. It also is relevant to note that in China (People's Republic of China), television broadcasting is not only controlled but is owned by the State. Therefore, if the Hong Kong Government was to corporatise or privatise the only television channel which is owned and controlled by the government, the Chinese State would not inherit a single broadcaster and may have to invest major resources to create one. It can be also argued that the existing broadcasting in China would not be able to cater for the needs of Hong Kong given its distinctive history and unique economic position and potential.

The Chinese influence has also been noted amongst the broadcasters. The cautious stance in programming amongst broadcasters has been practiced in a form of 'self-censorship', much of it has been 'implicit and non-confrontational' rather than 'explicit and blatant'. Given the fact that the manager, director and senior staff of the television broadcasters in Hong Kong have strong political ties with the British Colonial

Government, the Chinese Government, or both (Chan & Lee, 1991), some broadcasters encourage self-censorship in order to avoid antagonising China and to ensure their continued existence and profitability after 1997 (Combroad, 1994).

For example, immediately after the pro-democracy movement in 1989, ATV pulled out all coverage about the movement because they believed it would make Chinese Government unhappy (Sharma, 1989). More recently, in 1994, TVB decided not to broadcast a BBC documentary on the life of the late Chinese leader Mao Zedong, even though it has bought the show earlier. The reason for this was to avoid possible friction with China. Although there has been a strong criticism amongst journalists demanding the lifting of this self-imposed ban, it is interesting to note that there has not been any major statement from the Government on the issue.

Similarly, in the same year, despite the opposition from its journalists, the ATV broadcast a part of a film shot by a Spanish crew, which seemed to support China's official contention that there was no violence in the Tiananmen Square itself (Moriarty, 1995). Also in the same year, Rupert Murdoch dropped the BBC World channel from his STAR-TV service, and replaced it with Mandarin channel in order to placate Chinese Government, which had been tightly restricting foreign programmes, especially news, since the pro-democracy movement in Tiananmen Square in 1989.

From these examples, it appears that the television broadcasters in Hong Kong have become more concerned about maintaining their relationship with their future master (Chinese Government), albeit indirectly by practicing more cautious self-censorship, than with the declining Hong Kong Government. This, however, does not mean that the Hong Kong Government has not exerted its influence on the television broadcasting. What the Hong Kong Government has tried to do is establishing a broader broadcasting framework which accommodates diverse foreign interests, and ultimately places Hong Kong as a media centre in the region. Underlying this economic intention is that the Hong Kong Government hopes to minimise the China's political influence on media, including television, in the post-1997.

This is well shown in the recent regulatory policy. The fundamental philosophy reflected in the policy of regulating television broadcasting has been one of 'positive non-intervention' which manifests itself in the following broad principles (RCB, 1995a).

1. To protect audiences' interest through choice and diversity;
2. To provide a level playing field for all broadcasters to freely pursue their business in a fair and equitable environment; and
3. To safeguard media freedom through diversity.

These principles, which are not mutually exclusive in practical terms, can be summarised and highlighted into 'diversity' and

'fair and equal regulation'. As for the latter, different levels of regulatory control are applied across the range of television broadcasting services, according to the degree of each television medium's perceived influence on public opinion and social attitudes on one level, and range of appeal and immediacy, on the other. Under this principle, local terrestrial and subscription television broadcasting are more stringently regulated, whereas satellite broadcasting which is geared towards international or regional audience is more lightly regulated (RCB, 1995a).

With regard to the former, the major objective in providing 'diversity' has been to enable the people of Hong Kong to enjoy the widest choice of programmes of high quality (RCB, 1995a:1). Under this objective, the regulatory framework of television broadcasting saw a provision of different types of broadcasting service, that is, satellite and subscription, in the early 1990s, and more recently, attempts were made to attract foreign investments to enable Hong Kong to become a media hub in Asia.

The start of STAR-TV in 1991, as a five-channel satellite television service which broadcasts to the entire Asian region, the purchase by Rupert Murdoch's News Corporation of a controlling stake (63.6%) in STAR-TV in 1993, and later Murdoch's complete takeover of STAR-TV in 1995 have been clear examples of establishing Hong Kong's role as a key regional media location.

Indeed, in this final phase of the transition, a number of foreign corporations have a great interest in Hong Kong's media, on which they hope to capitalise in order to penetrate and exploit the growing commercial and trading opportunities in China (Fung & Lee, 1994). In 1994, the Governor-in-Council approved the uplink of broadcasters' television programmes broadcast from Hong Kong to the region through the facilities of Hong Kong Telecom International (HKTi). Several broadcasters soon joined Turner Broadcasting which first uplinked a 24-hour entertainment channel from Hong Kong to the Asia-Pacific region. Suffice it to name a few; Television Broadcasts International (TVBI), Entertainment and Sports Programming Network (ESPN), Asia Integrated Management, Reuters TV, and China Entertainment Television Broadcasting.

The move towards the creation of a media hub in Hong Kong has been justified not only on economic grounds but also in political terms. The move is a clear indication of Hong Kong Government's intention to create 'diversity' in a process of transition, by which the Colonial (British) Government hopes to maintain their interests and influence under a post-colonial Chinese administration. Arguably, this intention is deeply rooted in that the Colonial Government could intervene, albeit indirectly, to protect its remaining economic interests, such as capital investments in the territory against Chinese encroachment on Hong Kong's autonomy after 1997. The creation of a climate of flexibility and democratic structures is an indication of the longer term British view of maintaining a

relationship with the Colony. In part, this also may be seen as an attempt, at least, to put pressure on any Chinese attempts at limiting the freedom of information and democracy.

In many countries, 'diversity' of channels and programmes has largely been a consequence of deregulation or liberalisation of television broadcasting which has been made in recognition of the growing importance of technological development. Hong Kong has been no exception. 'Diversity' in Hong Kong, however, has also been a conscious and deliberate policy objective, from which the Colonial Government wants to maintain its interest by establishing a mutually-beneficial system.

In the process of creating diversity in channels and programmes, however, the gap between the State and television broadcasters, especially the new comers, Wharf Cable and STAR-TV, has been widened, mainly because of the lack of comprehensive guidelines on new forms of television. This was firstly noted in the early 1996 when the Broadcasting Bill, an omnibus legislation covering the different forms of television, has been shelved (*The Asian Wall Street Journal*, 24/1/1996). The failure to create rules and definitions for the emerging broadcasting technologies brought confusions both to the existing operators and potential participants.

One of the examples can be found in the current issue of deregulation of pay television. Contradictory to its original intention to provide diverse channels and programmes and

develop the media industry, by deregulating the pay television service after mid 1996, when the exclusive monopoly licence of the sole cable operator, Wharf Cable, expired, the Government extended the Wharf's monopoly on pay television for another two years until 1998 (*South China Morning Post*, 11/5/1996). A clear justification behind this has been to protect the existing monopoly of pay television, which stemmed from a concern that the deregulation would further increase the losses of the Wharf Cable, which attracted fewer than half the subscribers needed to break even, merely 150,000 subscribers as of early 1996 (Stein & Smith, 1996).

Undoubtedly, this plan was met a dissatisfaction from the STAR-TV which has been fully supportive to Hong Kong Government's policy to turn Hong Kong into a regional media centre, and has been so keen to own pay television licence when the Wharf's exclusive right expires in 1996.

Another example of confusion caused by the lack of rules and definitions for the emerging broadcasting technologies, has been the unclear definition of pay television and its difference from video-on-demand (VOD), as shown in the conflict between Wharf Cable and Hong Kong Telecom for the right to provide VOD services. The Hong Kong Government's new regulatory plan on VOD in 1996 offers two video-on-demand programme licences under the assumption that it differs from pay television broadcasting in the way of transmission, and it would be competing in the same market as pay television (*South*



*China Morning Post*, 30/3/1996). This sharply contrasts with the Wharf Cable's claim that only Wharf has the right to broadcast VOD because it is simply another form of pay TV (Stein & Smith, 1996).

#### 4.3. State Control over Operation and Programming.

As the preceding sections show, regulation in Hong Kong has maintained an apparent freedom for television broadcasting. A closer examination of this regulation, on the other hand, reveals that it masks a high degree of regulation by intrusive prescription in a number of areas of television broadcasting. This density of regulation, in turn, has restricted greatly the level of freedom in operation and programming. This has been mainly the result of the discrepancy between fundamental and day-to-day control.

Under this regulatory framework, the gap between legislative regulation on operation and programming and the administrative practice has been minimal. This minimal gap, although it appeared to exist in seemingly democratic way, has been the result of the State's on-going practice under which the State has been the key player in policy-making and exercise of the regulation.

#### 4.3.1. The Degree of State Control over Operation.

A high degree of control over operation is prescribed in the Television Ordinance, which explicitly gives the Governor-in-Council and the Broadcasting Authority ultimate power in almost all matters of licensing and regulation of television broadcasting. The Governor-in-Council can revoke licences (Television Ordinance, Section 14), make regulations and set standards for and issue directions on programmes and advertisements (Section 27, 28 & 29). The Broadcasting Authority can suspend licenses, prohibit programme(s), and impose financial penalties.

The degree of State control over the management of financial affairs has been significantly different from that over ownership of television broadcasting in Hong Kong (Table 4.4.). While there has been relatively lenient control on ownership, rigid and stringent control has been applied in all matters concerning financial affairs, the key area in management.

With the exception of the section in the 1964 Television Ordinance, which stipulated that the majority of directors of broadcasters shall be British subjects ordinarily residents in Hong Kong (Section 10), there has not been any significant State intervention on the personnel affairs - such as the appointment of heads or board members - of television broadcasters.

Table 4.4. - State control over television operation in Hong Kong since 1957.

	Management		Ownership		
	Personnel affairs	Financial affairs	Foreign ownership	Cross-media ownership	Foreign invest
1957 -1966	minimal	Obliged (R)	prohibited		
1967 -1972	no	Obliged (R+B+ F+A)	allowed	allowed	allowed
1973 -1987	no	Obliged (R+B+ F+A)	allowed	allowed	allowed
1988 -	no	Obliged (R+P+B+ F+A)	allowed	allowed	allowed

R: Royalties, P: Penalties, B: Business Report,  
F: Financial Report, A: Audit

In stark contrast, the most stringent control on operation is evident in the financial affairs of the television broadcasters. Broadcasters have to submit yearly returns, business reports, and audited accounts. Furthermore, the licensee is required to supply, on demand, any materials relative to financial operations to the Broadcasting Authority. Since 1987, financial penalties have been imposed for failure to comply with regulations and codes.

One of the salient features in the control over financial affairs of broadcasters in Hong Kong has been the imposition of royalties, which have been charged by the Government in return for the grant of a franchise to operate a service to the public on either an exclusive basis, or where competition is restricted (BRB, 1985a:28). Underlying justification behind this is an assumption that the airwaves are a limited resource

belonging to the public, hence all licensees have to pay for their use of the airwaves.

The payment of royalties by broadcasters has been imposed from the start of television broadcasting in Hong Kong. The amount of royalty was firstly based on the number of subscribers when Rediffusion was a sole television broadcaster, then on the (25% of) net profits of the commercial television broadcasters until 1987, and since then on their turnover (annual gross receipts) and calculated on a sliding scale subject to a prescribed overall maximum. Section 41 - the longest Section in the Television Ordinance - provides details about the imposition of royalties, including the amount and methods of payment. It is, however, interesting to note that while the Government's justification for imposing royalties is to ensure a public share in the financial benefits (BRB, 1985b), the Ordinance does not mention or explain how the collected royalties are used.

The relative lenience in the control over ownership has been mainly due to the Colonial Government's long-standing philosophy of laissez faire economy. The Government once encouraged local ownership in a bidding process for future broadcasters in the early 1970s. However, since then, as in other business sectors in Hong Kong which have been fostered in an open economic climate, there have been no strict rules on foreign ownership and foreign investment. An individual foreign company and person may hold shares of a broadcasting

company up to 49% and 10%, respectively. For example, the ownership of Asia Television which had been largely held by British owners (Rediffusion HK Ltd.) since 1973, was first changed to an Australian consortium in 1981, then to local businessman Deacon Chiu in 1983, and to the Lam Family and the Lai Sun Group together with New World Group in 1988 (ATV, 1990).

The Television Ordinance does not contain sections restricting cross-media ownership. Some shares of the TVB were held by an English-language newspaper, South China Morning Post, (Lau T., 1988), and a short-lived CTV (Commercial Television) station was partly owned by a Chinese-language newspaper and a radio broadcaster.

#### 4.3.2. The Degree of State Control over Programming.

The colonial imperative required that one of the channels of each commercial television broadcaster has to broadcast in English, although the population is overwhelmingly Chinese-speaking and monolingual, that is, having only one or more Chinese language (Chan K., 1991). Although there has been some minor changes in advertising content, such as total ban on tobacco advertising since 1987, the degree of State control over programming in Hong Kong has not been significantly changed over time (Table 4.5.).

A relative freedom has been allowed in some areas of programming, such as the proportion of foreign materials and no minimum quota of cultural programmes. This freedom, however, has been overshadowed by the enforcement of censorship. Since the start of free-to-air television in 1967, all broadcast materials (imported programmes, advertising, and drama) have been previewed by the Television Authority (later Broadcasting Authority). And films have been screened by the Panels of Film Censors (later Recreation and Culture Branch of the Government).

Table 4.5. - State control over television programming in Hong Kong since 1957.

	1957-1967	1968-1972	1973-1987	1988-
Censorship	loose guide	Pre-broadcast review by TA (1973-86) and BA (since 1987)		
Code of values	none	enforced	enforced	enforced
		The Authority can issue the Codes of Practice on programme, advertising and technical standards.		
Foreign materials	unlimited	unlimited	limited*	unlimited
Broadcast time	limited	limited	limited	limited
Minimum of cultural programs	no	no	no	no
Advertising time	restricted (10%/TBT)	restricted** (7 min/hr) (10%/TBT)	restricted (10%/TBT)	restricted (10%/TBT)

\*: From 1976 to 1980

\*\* : TVB was restricted not to exceed 7 minutes in one hour and 10% of total broadcast time, whereas RTV was restricted not to exceed 10% of total broadcast time, not restricted to minutes in any one hour.

TBT: Total Broadcast Time.

It is worth noting that the mode of State control over programmes which have not comply with programme standards set in the Television Ordinance, has been differently performed after 1987. Prior to 1987, when the Broadcasting Authority replaced Television Authority, the State's control over such programmes has been relying mainly on persuasion rather than legalistic coercion (TVB, 1986). However, with the start of Broadcasting Authority, which was empowered to take actions on the complaints about programmes it received from the public, the control over such programmes has been exerted more through legal enforcement. The imposition of strict regulation on programming is further illustrated by a range of measures, that can be applied for non-compliance with the prescribed standards (Table 4.6.).

Table 4.6. - Actions taken by the Broadcasting Authority on complaint cases considered by the Complaints Committee.

Year	All	No act- ion	Letter	Warning	Penal- ty	Ban
		A T W	A T W	A T W S	A T	A T
1987/88			4 19	1 6	1	
1988/89	611		23 34	20 17	2	
1989/90	276		39 52	4 20	1	
1990/91			17 14	8 10		
1991/92	627	8 8	6 13	14 6 1	2	3 4
1993/94	1333	7 4 1	21 15 3	8 5 3	4 2	3 4

All: Total number of complaints considered and processed.  
 No action: No further action  
 Letter: Advisory letter  
 Warning: Warning + Serious warning  
 Penalty: Financial Penalty  
 Ban: Banning of advertising from broadcast  
 A: ATV,            T: TVB,            W: Wharf Cable,            S: STAR-TV.

Sources: Compiled from Broadcasting Authority Annual Reports, 1987/88, 88/89, 89/90, 90/91, 91/92, and 1993/94.

A closer look at Table 4.6. shows that there has been a significant gap between the total number of complaints considered and processed and the number of actions taken. In other words, a large number of complaints considered and processed by the Complaints Committee have not been acted upon. This strongly supports an argument that the Broadcasting Authority has discretionary power. Indeed, the Broadcasting Authority may refuse a complaint that is, in the opinion of the Authority, trivial or frivolous (Broadcasting Authority Ordinance, Section 11:3a). Therefore it is highly questionable whether the complaints against the RTHK are considered, processed, or followed by any action by the Broadcasting Authority. This is further evidenced by the Government's statement; 'Any complaints received by the Broadcasting Authority will be referred to RTHK for consideration (Personal correspondence with Executive Officer, RCB, 15/8/1995).'

A notable feature of State control over programming in Hong Kong is that, unlike in many other countries, there has not been any stringent restriction on the amount of foreign programmes, nor an imposed requirement for a minimum of cultural programmes (or any other specific genre). This has been mainly due to the audience's preference for local programmes (Tsui, et. al., 1975). Although the restriction on the amount of foreign programmes was once regulated in the later half of the 1970s, it is interesting to note that at the time, the restriction was on the 'minimum' level of imported programmes. For example, commercial television stations were



required to broadcast a reasonable proportion of programmes of British or Commonwealth origin (Section 27:3, Subsidiary Legislation, Television Ordinance 1964). One of the possible explanations for this is that the Colonial Government has wanted television broadcasters to show programmes for the British expatriates. However, given the small number of its population (less than 1%), it is, without a doubt, questionable whether such a regulation served the interests of broadcasters.

The apparent freedom in programming mentioned above, becomes strictly limited because the programme standards set out in the Code of Practice are strictly enforced, with an ultimate measure of censorship in the areas of film, imported programmes, advertisements and drama. Advertising has been the subject of review by Panels of Film Censors since 1968, and all advertising materials have had to be submitted to the Television Authority prior to transmission since 1973. Prior to this, there had been no obligation for advertisers or advertising agencies to consult the Television Authority. Furthermore, each broadcaster's in-house Broadcasting Guidelines contain various Government requirements.

Diagram 4.1. shows the placement of subjective evaluation of the degree of State control over operation and programming over time, based on the analysis made in this section. It reveals that there is a significant difference in the degree of control between operation and programming. Overall degree of control on operation over time has been somewhere between the strong

and weak ends tilting slightly towards weak end, while that on programming has been closer to the strong end.

Diagram 4.1. - Trends of State control over television operation and programming in Hong Kong.

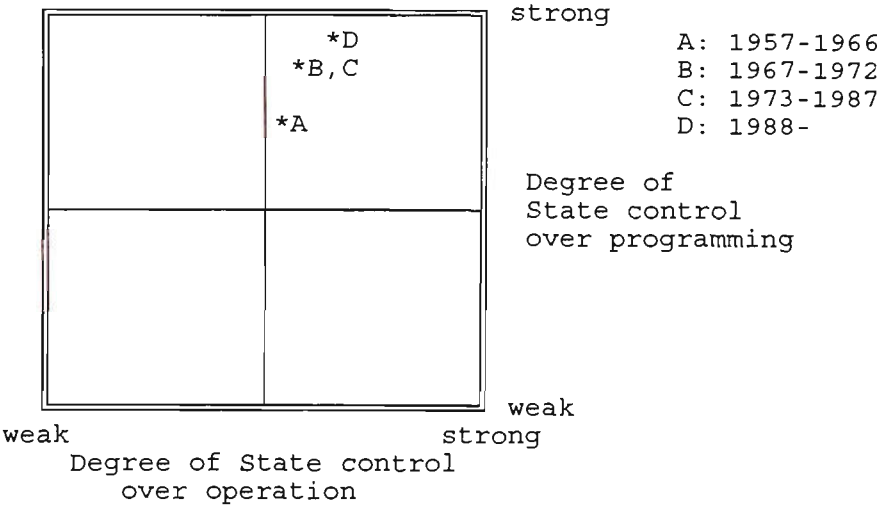


Diagram 4.1. also reveals that there have not been any significant changes over time in the range of the degree of control on both operation and programming. This can be explained in terms of the nature of the Colonial Government (see Section 4.2.4.), that is, to maintain the status quo in television broadcasting without altering its fundamental regulatory structure.

4.4. Conclusion to Chapter Four.

One of the fundamental issues raised in the case of television broadcasting in Hong Kong is whether the regulators of television broadcasting have been performing a mediating role between the State and television broadcasters. A senior executive officer at the Broadcasting Authority was strongly

opposed to the contention that the BA is a mediating agency by stressing that it is a statutory body merely for administering the provisions of the Television Ordinance (Interview with Senior Executive Officer, 22/June/1995). However, it is quite clear that, in the process of performing their functions, the regulators in Hong Kong have been identified with Government and have been implemented the Government's objectives.

Hong Kong's experience also shows that the gap between legislative regulation and administrative practice has been minimal. This has been mainly because the State or the Government has been the sole player in policy-making and the regulator, a statutory body placed under the Government, only performs administrative functions. This, however, may not be seen as a one-sided regulatory structure in Hong Kong. As revealed in this chapter, one of the distinctive features of regulation in Hong Kong has been the inclusion of members of the public in the process of reviewing, introducing changes or changing television broadcasting. Regardless of the acceptance of the public's view on the issues in the decision making, this is a clear appearance that the Hong Kong State has tried to take account of issues raised by the public through a democratic process.

It is equally clear that the Government retains overall control over broadcasting, however, predicated on central control by a colonial power which is concerned with maintaining control over the life of the colony as a whole, including television.

In this sense, the Hong Kong State has maintained the appearance of maximum freedom, and at the same time, it has also exerted pressure to control television broadcasting, by means of administrative regulation. Analysis of the maximum degree of control over television broadcasting in Hong Kong shows that although control does not appear to be exerted directly in the first place, it becomes evident when one looks at the prescription about the types and contents of programmes to be broadcast.

Growing pressure is further being put on the Colonial Government in a transitional phase of sovereignty change. Although nobody can predict precisely about the future of television broadcasting in Hong Kong after 1997, it could be argued that the recent development in the broadcasting policy has more to do with post-1997 than pre-1997. In this process, it appears that the Government is examining its role and links with the region. For example, at the very least, the Hong Kong Government has been looking to develop mutually beneficial television broadcasting, that is, broadcasting that is compatible with the interests of the Colonial Government and the interests of local and overseas capital. This has been done by creating 'diversity', which has been adopted as a consequence of deregulation and, at the same time, it was consistent with the Government's principal policy of 'positive non-intervention'.

The underlying intention is to maximise the benefits of television broadcasting to British, Hong Kong, and international (mainly USA) capitalists' interests. The way to achieve this was not by creating antagonism and conflict but by fostering mutually beneficial arrangements for achieving ends which met the needs or interests of both.

Hong Kong's experience clearly shows that the Colonial Government has shaped and developed the regulatory structure of television broadcasting according to its will, but its power has been limited in the face of 1997 sovereignty change. Undoubtedly, the major concern of television broadcasters is whether they can have the same degree of freedom they have enjoyed under the new master. While such limitations and uncertainties exist in the colonial country, the following chapter looks at television broadcasting in Japan, an independent country, where the State has been a sole regulator.

Chapter Five - The Role of the State in Television  
Broadcasting in Japan.

Television broadcasting in Japan, since its inception in 1953, has not undergone any significant changes in its structure (Table 5.1.), maintaining a dual structure of public and commercial television broadcasting. On one hand, this implies that Japanese policy makers, television broadcasters, and the public seem to have been satisfied with the existing Japanese television broadcasting system (Ito, 1986).

Table 5.1. - The development of television broadcasting structure in Japan.

1953	1987	1989	1991
<NHK>			
(NTV, TBS, ATV, Fuji)		<NHK>	
	(CATV)		(JSB)

< >: Public, ( ): Commercial  
NHK: Nippon Hoso Kyokai (Japan Broadcasting Corporation)  
NTV: Nippon Television Network  
TBS: Tokyo Broadcasting System  
ANB: Asahi National Broadcasting  
Fuji: Fuji Television Network  
CATV: Urban-type cable television  
JSB: Japan Satellite Broadcasting  
*Italic*: Satellite Broadcasting

Yet on the other, this has been the result of the State's persistence in maintaining the status quo in television broadcasting. At the same time, television broadcasters have asserted strong opposition to anything that would give the State a greater say in programming. In respect of the legislation of television broadcasting, since the Broadcast Law was formulated in 1950 there were no major revisions until 1989 when the State realised the growing importance of the new

broadcast media. This also indicates that there have been no serious problems in the developmental process.

This chapter first reviews the historical role of State regulation in television broadcasting in Japan. It then examines the degree of the closeness of the relationship between the State and television broadcasters by looking at the major factors affecting the relationship. Finally, it looks at how the relationship is reflected in operation and programming with an attempt to conceptualise the degree of State control on operation and programming.

#### 5.1. Regulatory History of Television Broadcasting in Japan.

Japan is one of the rare cases in the advanced countries where the State bureaucracy is the sole regulator of television broadcasting. The fundamental question is how the State, as a sole regulator, regulates television broadcasting in the absence of a central and integrated mediating agency between the State and television broadcasters. One of the possible practice exercised in such a situation could be the enforced control exercised by the dictating government or party (see section 2.1.1.). As this section reveals, however, although there have been no control mechanisms or structures in Japan which mediate between the State bureaucracy and television broadcasters, most of the mediating functions have been performed within the State. Also, despite the absence of an

identifiable mediating agency, the gap between the legislative regulation and the State bureaucracy in Japan has been minimal.

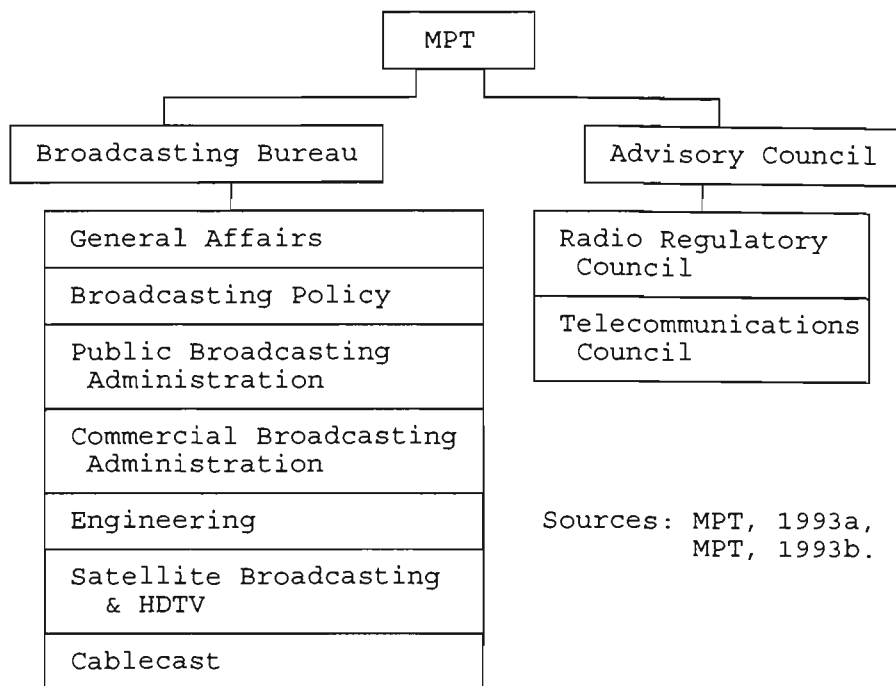
#### 5.1.1. Major Regulator.

Television broadcasting in Japan falls under the control of the Ministry of Posts and Telecommunications in Japan (MPT) which also regulates telecommunications (Figure 5.1). The major administrative body is the Broadcasting Bureau within the MPT. Its main tasks include policy planning concerning television (including cable) and other types of broadcasting, the promotion of broadcasting policies, and the licensing and supervision of broadcasting stations (MPT, 1993a).

Within the MPT, there is also the Radio Regulatory Council which is an internal advisory council. Its functions include the examination of the matters related to the regulation of radio waves and broadcasting, recommendations to the Minister of Posts and Telecommunications, and dealing with the complaints lodged with the Minister. The Council must be referred to by the Minister when granting a licence for a radio and television broadcaster (Shimizu, 1993). The Telecommunications Council, another internal advisory council attached to the MPT, examines the matters related to the regulation of cable broadcasting and also make recommendations to the Minister.



Figure 5.1. - Current regulatory structure of television broadcasting in Japan.



#### 5.1.2. Early Regulation: Absence of Mediating Regulatory Agency.

It was not a coincidence that the introduction of television in Japan was accelerated during 1951 and 1952, around the time of the conclusion of the Peace Treaty which freed Japan from occupation by the Allied Forces. The structure and legal framework of television broadcasting in Japan which was then formulated and implemented by the General Headquarters of the Allied Power (GHQ) virtually has remained unchanged until now.

As far as regulatory structure is concerned, however, it is interesting to note that the Japanese State, from the very beginning of television broadcasting, intended to remain a sole regulator. This is all the more striking for the fact that among the thirteen cabinet Ministries in Japan, virtually all

Ministries have their own mediating agencies or commissions which were established as independent (external) organs of Ministries (Sato, 1984). The only exceptions to this are the Ministry of Posts and Telecommunications (MPT) and Ministry of Foreign Affairs. The fact that there has been no mediating agency in regulating television broadcasting in Japan is in quite dramatic contrast to many of other advanced countries where mediating agencies were introduced at the initial stage of television broadcasting. In Australia, for example, the Australian Broadcasting Control Board was introduced in 1949, and its successors (ABT and ABA) have functioned as mediating agencies.

In Japan, the mediating agency which was in place in 1950 existed only for a short time. The Radio Regulatory Commission (RRC) was created by the GHQ in 1950, modelled on the Federal Communications Commission (FCC) in the United States. Realising the need of democratic administration with people of different background as members, the GHQ wanted to assure the independence of the RRC from the Cabinet especially when the nature of administrative affair required fairness and political neutrality (Sato, 1984:31). Despite a strong resistance in the Diet, the RRC was empowered with supervising power over both radio and television stations, including licensing power. After two years of operation, however, the powers exercised by the RRC were transferred to the Ministry of Communications (now MPT) by the Japanese government following the conclusion of the Peace Treaty in 1952.

One of the fundamental questions raised by the early development of the regulatory structure in Japan is why the State abolished the mediating agency, the Radio Regulatory Commission which was established by the GHQ. Although precise and deeper examination for this question is beyond the scope of this chapter, some of the interpretations are worth mentioning.

The [Japanese] government tried to resist placing the authority [RRC] to supervise radio waves outside cabinet control on the ground that the regulatory commission in question did not fit the Japanese political structure.  
(Nakajima, 1971:30)

This comment implies that the Japanese State which had exercised tight control over radio broadcasting until the new broadcast law was enacted 1950, from the very beginning, wanted to maintain certain control over television. Indeed, under the control of the Allied Power, the Japanese Government was forced to take rather defensive attitude in the course of introducing television, and it was only after resuming its independence in 1952, that the Japanese Government managed to retain its discretion in the television. Recognising that television broadcasting has a significant influence on the people, the Government who had already had experience in controlling radio broadcasting for a long time, wanted to expand its control over to television broadcasting under its traditional political structure in which the Government played a central power.

One other possible interpretation could be rather more psychological. As a country which had never been conquered before 1945, the Japanese State might not have wanted to have tangible structures evidencing its defeat. In the case of the broadcasting, the trace was the RRC made by conquering power (the GHQ). This would be particularly true in Japan where the protection of nationalism and national identity have been historically strongly maintained. And this is more relevant to broadcasting than to other areas in which mediating agencies were institutionalised.

#### 5.1.3. The Broadcast Law on Trial?: 1960s-1988.

When the Broadcast Law was enacted in 1950, there was no clear expectation of the role that a commercial broadcaster would play (Ashibe, 1981). Not surprisingly, no definite plan for establishing commercial station was laid out, neither in the Radio Law nor the Broadcast Law. Indeed, the Broadcast Law only provided the basis on which commercial broadcasters could be established, while the Radio Law simply provided the qualifications leading to the granting of licenses. This indicates that the State, which had operated radio under its control for a long time, thought the nation-wide public broadcasting (Japan Broadcasting Corporation, NHK) would be more emphasised. Since the NHK is a central institution in broadcasting structure in Japan, it will be dealt with in more detail in the subsequent sections.

Although the partial revision of the Broadcast Law in 1959 saw the improvement and rationalisation of programming and the clarification of NHK's obligations, no consideration was given to the protection and fostering of the commercial broadcasters who had achieved significant developments (NHK, 1967:258). The dissatisfaction of the commercial television broadcasters was recognised by the MPT. The result was the establishment of the Provisional Broadcast Legislation Investigation Committee, a temporary consultative organ for the MPT.

The revision plan based on the Committee's subsequent report was not passed in the Diet due to incomplete debate and lack of session time. One possible explanation for the Diet's reluctance in passing the plan was due to the fact that the plan would have formalised the relationship and structures, rendering them potentially subject to scrutiny. However, the plan is to be seen as a significant attempt made by the MPT to review all aspects of legislation related to television broadcasting. While the broader rationale for the revision plan was to meet the technological progress in the broadcast industry, such as color television service and the introduction of UHF band for commercial television (Omori, 1989), the plan also reflected major concerns of the commercial television broadcasters, for example, the revision of the licensing system and the conditions attached to a broadcasting licence.

Among the principal items which were unofficially agreed upon in the Diet - although the plan was not passed but agreed to

'unofficially' by the Diet - the item on partial change of regulatory structure is particularly interesting. It suggests the expansion of the power of the Radio Regulatory Council, an advisory organ attached to the MPT. For example, radio wave plan, renewals of licenses for broadcasters and other matters such as Ministerial ordinances related to broadcasting were all to be referred to this Council (NHK, 1967:261).

#### 5.1.4. Revision of Broadcast Law and MPT's Changing Role, 1989- .

The growing importance of the new broadcast technologies, particularly satellite television, most of which were developed by the MPT's own initiatives together with the NHK, was noted by the Japanese Government in the mid 1980s. Also noted in the late 1980s were the financial difficulties of the NHK, which was experiencing the stagnation of its budget. Because NHK's revenue was totally levied from each household, in a situation where the saturation of the television set had nearly reached its maximum point, there was no prospect of growth.

As a result, the MPT set up the Broadcasting Policy Commission in 1985, a temporary Ministerial Advisory Commission on broadcasting policy with the specific aim of reviewing the role of broadcasting in the age of new media. Since the MPT had experienced the total scrapping of the bill which it had initiated for a fundamental revision of the Broadcast Law in the mid-1960s, the MPT's approach to the Diet, although not to

the public, was to request minimal changes without altering the whole framework.

The MPT persuaded lawmakers into accepting the revision by stressing that it was simply a confirmation of the status quo of broadcasting, and it did not involve legislation of new policies. (Omori, 1989:26)

Although the State's stance in introducing the new broadcast technologies has not significantly altered the overall regulatory framework, the different level of control over the public broadcaster and the commercial broadcasters, which implicitly existed from the beginning of television broadcasting, has been further widened in practice. For example, the partial revision of the Broadcast Law of 1988 provides a basis of NHK's commercial involvement in programming business, provided it will not hinder a smooth execution of its operation (Art.9:3), and it shall not aim at profits (Art.9:4).

However, the regulation of the new broadcast media in Japan was not flexible until the beginning of the 1990s when the State realised the growing importance of the new technologies in the context of the convergence of broadcasting and telecommunications, from which two-way interactive communication using advanced distribution technologies can be developed. As for the situation of the existing over-the-air television broadcasting in the first half of the 1990s, the number of commercial television stations remained stagnant (Table 5.2.), and the poor reception has virtually been eliminated (Sugaya, 1995).

Table 5.2. - The commercial television networks in Japan.

Name	Key Station	* Number of affiliated Stations			
		1988	1992	1993	1995
JNN	Tokyo Broadcasting System	25	28	28	28
NNN	Nippon Television Network	29	30	30	30
FNN	Fuji Television Network	26	27	26	26
ANN	Asahi National Broadcasting	19	23	23	25
TXN	Television Tokyo, Channel 12	4	6	6	6

\* Number of Affiliated Stations: Includes the key station.

Sources: Japan NAB Handbook 1994/95, 1993/94, 1992/93, and 1988/1989; NAB Report, 1996.

The commercial broadcasters are regulated by the National Association of Commercial Broadcasters in Japan (NABJ) which was established in 1951 as a voluntary organisation functioning to strive for broadcast ethics, to promote the public welfare through broadcasting service, and to solve problems to the member commercial broadcasters (NABJ, 1994). A set of broadcasting standards instituted by the NABJ serve as guidelines for commercial broadcasters. The broadcasting standards, however, do not provide any specific sanctions to enforce those guidelines. In this respect, the individual commercial broadcasters enjoy a significant degree of freedom in programming.

By weakening traditional regulatory boundaries, such as allocation of spectrum and granting a license, the changing climate in television broadcasting invariably placed the issue of new technology into the centre of the State's broadcasting



policy. This includes the following major objectives (MPT, 1994a);

- a. Promotion of Broadcasting Industry Policy
- b. Internationalisation of Broadcasting
- c. Diversification of Broadcast Media
- d. Digitization of Broadcasting

#### 5.1.5. Policymaking Process on Broadcasting in Japan.

As in other areas of industrial policies, the tripartite composition in the policy-making process has not included the public. In the initial interrelating process on any policy issues amongst the Government, ruling party, and the business representatives, a number of negotiations are undertaken through 'ipponka chosei' (unification coordination) which are normally done in opaque fashion.

The effect of ipponka chosei (unification coordination) has been to place media power squarely within the establishment consensus of the socially and politically acceptable, and to diffuse it through shared authority within the class, perpetuating communications power through negotiation among power structure groups. (Weinberg, 1991:692)

#### 5.2. The Relationship between the State and Television Broadcasters in Japan.

The typical relationship between the State and television broadcasting in Japan, like in other areas of business, has been maintained and reinforced in a tradition of administrative

guidance from which mutual benefits have been sought amongst the State, politicians, and the broadcasting representatives. The relationship between the State and television broadcasters was not significantly changed from the inception of television in the early 1950s until the late 1980s. This unchanged relationship has been reflected both in the minimal changes in the structure of over-the-air television broadcasting since the start of television broadcasting, and in the few or minor changes in regulations on television broadcasting.

The introduction of new broadcast technologies in the late 1980s, however, has not enabled the State to fully maintain the same degree of traditional relationship with the over-the-air television broadcasters, particularly with the commercial broadcasters.

#### 5.2.1. What to Control, What to not Control? (1953-1967)

The steady relationship between the State and television broadcasters was originally established by foreign (GHQ) influence with the aim of keeping Japan from restructuring its power and furthermore introducing the Japanese public free market economy. As a consequence, the nature of the NHK, which had been a public corporation in the hands of the Government, changed to an independent, juridical entity, sponsored by the public. At the same time, the monopoly of broadcasting disappeared to give way to a competitive system in which there was room for commercial broadcasters (Vera, 1967).

The NHK is governed by the Board of Governors whose members are appointed by the Prime Minister of Japan. Neither the Radio Law nor the Broadcast Law stipulates the form of management, organisation, nor financial basis of the commercial broadcasters. The Broadcast Law only provides regulations over programmes and the approval of contract provisions in the case where a pay channel broadcasting system is introduced.

#### 5.2.2. No Significant Change. (1968-1988)

The State's practice of administrative guidance to the broadcasters has been a typical way of controlling television broadcasting. Through this, rule enforcement has been accomplished by informal meetings between the regulator and regulated, in the absence of formal process (Weinberg, 1991). Quite often, special committees or deliberation councils are created by the MPT in order to publicise and legitimise its policies or regulations. Since the broadcasters need the favor of the Government bureaucracy, for example in the granting or renewing of licences, the broadcasters' formal complaints over the administrative guidance on specific broadcasting issues given by the Government have been hardly voiced.

One of the significant regulatory changes noted during this period was the State's intention to increase the number of television channels in each area. In a situation where broadcasting service territories are divided according to administrative district with the exception of three large

districts - Kanto, Chukyo, and Kinki - where more than half of the television households reside, minimising a reception gap between the urban and rural areas has been one of the major concerns of the MPT. For that purpose, the MPT introduced the Frequency Allocation Plan for Television Broadcasting (First Channel Plan) as early as 1957, by which 7 NHK and 36 commercial stations were granted licenses (Hattori, 1989). This policy has been revised and has steadily improved equal access to television broadcasting service. The Second Channel Plan in 1961 which was based on the MPT's Policy for Fundamental Standards prompted a three-station policy. In 1986, the number of commercial channels in each area scheduled has been increased to four.

An interesting feature noted in the licensing process is the way in which the MPT selects a licensee amongst many competitive applicants. This has been done, rather than accepting the most competitive bid, through 'unification adjustment'. This refers to the arrangement by which many applicants are unified, through adjustment, into one. This practice, however, has not been achieved based on any type of regulations set in the law, but as a customary practice (Hattori, 1989). Most recently, this practice has been also applied in the process of selecting a licensee for the commercial satellite television service in 1990. As a result, a number of competitive private companies had to form a consortium to operate the service (Japan Satellite Broadcasting Co.). This practice of unification adjustment has been a

peculiarly Japanese way of dealing with potential conflict in the allocation of scarce resources.

### 5.2.3. New Media and Partial Changes of Regulation. (1989- )

The major issue now presented by new means of television service delivery in Japan has been how to incorporate them into the existing structure under which free-to-air television broadcasting had been carefully protected by the State administration, and justified by the frequency scarcity. In this process, the State has placed priority on the increase of channels by introducing new broadcast media rather than the protection of existing broadcasting enterprises. The introduction of new broadcast distribution technologies invariably led to changes in regulations in 1989 which aimed to safeguard the NHK's engagement in satellite television and to encourage the diversification of broadcast media, and it further saw the deregulation of both cable and satellite in the early 1990s.

The changing environment caused by the new media technologies is well reflected in the MPT's principal broadcasting policy, which states; 'As well as fostering cable television and HDTV, the MPT works to ensure that the same level of broadcasting services can be received throughout the country (MPT, 1993b).' The introduction of the world's first direct satellite broadcasting service in 1984 and experimental broadcasting using High-Definition Television (HDTV) in 1988 were the

results of NHK's long-time commitment to its requirements set in the Broadcast Law, providing NHK a role in developing technological development of system. This will be further dealt with in the next section.

The Law requires NHK to broadcast all over Japan (Art.7) and to conduct services necessary for the improvement and development of broadcasting and the reception thereof (Art.9.2). With the introduction of new broadcast technologies, the traditional notion of regional orientation and adaptability which has ruled television broadcasting in Japan has become less realistic.

#### *Cable television*

The development of cable television in Japan, although started as early as the 1950s, has been slow and regarded as a less attractive medium until late 1993. Prior to the introduction of urban-type cable television in 1987, the MPT maintained the view that the sole value of cable television system was as a retransmission service, and expected this retransmission function would disappear as the number of free UHF station increased or as direct broadcasting service began (Ito, 1986).

It can be said that the relationship between the State and cable television industry in Japan has been shaped under the State's imbalanced policy and, more importantly, with the absence of any dominant leader in the cable industry (In case

of over-the-air and satellite television broadcasting, the NHK has played a dominant role in developing broadcasting). For these reasons, the development of cable television in Japan has been hampered and more complexities were encountered. For example, a cable operator should get permission from the MPT, Ministry of Construction, and prefectural and local governments.

However, with the launch of CS (Communication Satellite) channels in 1992, which transmit programmes through Space CableNet to cable subscribers, MPT's policy on cable television industry changed from restriction to deregulation. This included easing the limitation of foreign ownership, abolishing the requirement of community-based operation, and allowing multi-area cable systems (MPT, 1993b). Apart from the small number of cable facilities - less than 5% are authorised facilities (MPT, 1995b) - and low diffusion rates, also worth noting is that about half of the cable systems with permits are owned by non-profit organisations such as local government and public organisations (Sugaya, 1995).

### *Satellite television*

Satellite television in Japan has been initiated and developed by the State and it has been coupled with the NHK's public obligation of reception improvement all over Japan. In this regard, the State's major broadcasting policies have been

identical with the NHK's long-time involvement in the new technologies.

Following the initial changes of Broadcast Law in 1989, the JSB (Japan Satellite Broadcasting: Wowow Channel), the first commercial satellite television station in Japan, was formed as a consortium of 262 Japanese companies including five Tokyo-based terrestrial television broadcasters (JSB, 1993). It may be quite proper to say that the late start, financing, lack of reputation, and poor management of the JSB serve as reasons which have placed the JSB far behind the NHK's two satellite channels in terms of subscription figures (Table 5.3.).

Table 5.3. - Number of subscribers for DBS via broadcasting satellite in Japan. (Unit: 1,000)

	1989	1990	1991	1992	1993	1994	*1995
NHK	537	1204	2351	3803	5001	5850	6997
JSB			217	801	1257	1493	1902

\*1995: As of October. (Other years: as of March)

Source: MPT, 1995a.

Another important reason behind the slowness of the JSB can also be found in the consortium member broadcasters' passive involvement in the JSB. 'We just want to know how to operate satellite broadcasting in the JSB (Interview with the Vice President, International Affairs, TBS, 14/7/1994).' It is not difficult to note from this comment that for the commercial television broadcasters, JSB is their competitor so there is no reason for them to get deeply involved in the development of JSB.



Like the NHK, the JSB relies mainly on the subscription fee for its finance. This, however, does not mean that the JSB has been prohibited to broadcast commercials. On the contrary, for commercial satellite broadcasting, the MPT stipulates that at least half of its weekly programming must be paid for from subscriber fees (Yukio, 1994). The justification behind this regulation might lie in the MPT's intention to protect the existing terrestrial broadcasters from losing too much advertising away from the emerging satellite broadcasting (Yukio, 1994:54).

Although it could have started with commercials, the JSB wanted to introduce a new concept of commercial-free subscription-based pay television in Japan in 1991. Due to failure of this approach and its growing deficit, however, JSB started partial commercials from the beginning of 1994. However, it is interesting to note that the majority of advertisers on JSB were the original member companies of the JSB consortium, mainly because it was difficult to attract other advertisers outside the JSB (Interview with the Director, Public Relations, JSB, 14/7/1994).

'Japanese people regard NHK as a government. There is no way to refuse NHK (Interview with the Director, Public Relations Department, JSB, 14/7/1994).' A similar tone of dissatisfaction with the MPT comes also from the commercial terrestrial broadcasters. A senior executive of a commercial television broadcaster, who wanted to remain anonymous claimed that 'the

State emphasises too much on NHK. They have too many channels. The government (MPT) and the semi-government (NHK) have been always stronger than the private broadcasters (Interview, 14/7/1994).'

It is worth noting that the MPT forbade Japanese television broadcasters from broadcasting programmes via satellite to other countries until 1994. Deregulation of broadcasting in June 1994 enabled local broadcasters to send television programmes overseas, while allowing foreign broadcasters to start services in Japan. These new challenges, however, were not overwhelmingly welcomed by both the NHK and commercial broadcasters.

As a consequence, NHK launched international television services via satellite (TV-Japan) to North America and Europe in 1995, entrusting to two existing programme suppliers, Japan Network Group (JNG) in New York and Japan Satellite TV (JSTV) in London. Its aims are to promote international understanding of Japan and provide Japanese travellers and residents overseas with information and entertainment from home (NHK, 1995a). This justification, from the outset, was met with a reluctance amongst the television broadcasters, including the NHK.

'Fearing the potential threats from other Asian countries, such as STAR-TV, and Western penetration in Asian market, NHK believed they might provide Asian point of view to the rest of the world. When MPT officially supported TV-Japan, commercial

broadcasters thought it negative in business terms. NHK felt in the same way, but as a public broadcaster, NHK was pushed to initiate TV-Japan by the MPT (Interview with Researcher, NHK-BCRI, 18/1/1996).'

This comment clearly raises a question whether State's intention to promote international television service has been fully shared by the NHK, especially in financial terms. This is particularly true when we consider that, unlike Radio-Japan, an international radio service provided by NHK, which has been partly funded by the Government, the TV-Japan is operated at NHK's own expense. Since the launch of NHK satellite television broadcast in 1989, the number of NHK (terrestrial television) subscribers has gradually decreased while the number of satellite contract has been increasing (Table 5.4.).

Table 5.4. - Types & number of NHK contracts. (Unit:1,000)

	Terrestrial		Satellite		Special	Total
	Color	General	Color	General		
1989	30535	1447	1200	5	1	33188
1990	29826	1358	2344	12	2	33542
1991	28855	1271	3785	22	4	33937
1992	28206	1126	4970	30	12	34344
1993	27799	1040	5815	35	13	34702
1994	27476	971	6528	39	14	35028

Color: Color reception.

General: Black-and-white reception.

Satellite: Includes reception of terrestrial TV broadcasts.

Special: For satellite TV broadcasts in areas where geographical interference reception occurs, and for special reception on transport.

Sources: NHK Yearbook, 1995b; NHK Factsheet, 1995c.

Although there has been steady increase in the total contract number in the first half of the 1990s, the gap between the

NHK's revenues and expenditures has become closer (Table 5.5.), which means NHK's profit is decreasing. Therefore, given the fact that nearly all (97%) of its operating revenue come from direct fees from the viewers, it is reasonable to say that NHK has made an unwilling start of TV-Japan.

From NHK's point of view, however, TV-Japan may be regarded as a good ground for justifying its budget increase in the near future (the current receiving fees were set in April, 1990, following the revision of Broadcast Law which recognised NHK's financial difficulty and allowed NHK's satellite television).

Table 5.5. - NHK's revenues and expenditures.  
(Unit: 1 billion Yen)

	1989	1990	1991	1992	1993	1994
Revenue	393	483.8	544.2	540.4	551.3	566.7
Expenditure	406.7	447.2	484.2	507.9	521.4	552.2

Source: MPT, 1995b.

Given the political and cultural sensitivities caused by the spillover from Japanese satellite television broadcasting having been strongly objected to from its neighboring countries, such as South Korea and Taiwan, it is not surprising that the Japanese television broadcasters have been reluctant to launch a regional service. The reluctant stance has been further noted in the fact that the NHK's international television broadcasting service (TV-Japan) in Asia-Pacific region, where more Japanese are residing than in Europe, has been reserved for the future. This has been mainly due to possible detrimental effect on the values and culture in the

region (NHK, 1995a). Earlier, this was well demonstrated in the late 1980s when the NHK intended to establish a CNN-type of Asian news service, then postponed its plan due to unpopularity and expected lack of cooperation in the region.

The NHK has had long experience and consistent financial support from the Government and television makers during the development of satellite broadcasting. Unlike NHK, however, none of the commercial broadcasters has moved to launch a regional or international service competing with western services like STAR-TV, MTV, or BBC (Schilling, 1994), until very recently, when TBS, one of the five Tokyo-based commercial broadcasters, announced its intention to launch international television service in 1997 (*Dong-A Ilbo*, 7/July/1996).

Since the introduction of satellite television in the late 1980s, the relationship between the State and the commercial broadcasters has deteriorated. This has in part stemmed from the MPT's preoccupation with the advancement of DBS and HDTV technology. Based on MPT's long-time good relationship with the NHK together with NHK's public nature and its technical capacity, the preference has been given to the NHK. This has been further evidenced when the commercial broadcasters' concern over NHK's quasi-commercial status and its ability to unfairly dominate DBS in Japan was ignored by the MPT (Gershon & Kanayama, 1995).

### 5.3. State Control over Operation and Programming.

One of the difficulties in clearly identifying the State control in television broadcasting in Japan is found not only in the different level of regulatory specifications devoted to NHK and commercial broadcasters, but also in the different mode of regulatory practice. For example, neither the Radio Law nor the Broadcast Law stipulates the form of management, organisation, nor financial source of commercial television broadcasters. On the other hand, the Broadcast Law specifies those regulations for the NHK. The Broadcast Law only provides regulations over programmes and approval of contract provisions in the case of a pay channel broadcasting system being introduced. While maintaining the co-existence of public/commercial structure, the State has exerted indirect mode of control over operation and programming without confronting serious challenges.

#### 5.3.1. The Degree of State Control over Operation.

In Japan, one of the fundamental rationales for differentiating the public and commercial broadcasting has been based on the range of services covered by each broadcaster. The broadest objective of the NHK set in the Broadcast Law, which requires NHK to be responsible for providing services all over Japan (Art.7), has continuously prompted NHK to initiate new technological development of television broadcasting over time.

This, at the same time, has been coupled with the State's policy and support.

One of the major characteristics of television in Japan is the highly-concentrated ownership. Each broadcaster is owned by one of the five Tokyo-based media conglomerates that own and operate newspaper and broadcasting enterprises all over Japan. For example, NTV is backed by Yomiuri Group, which owns Yomiuri Newspaper. Similarly, TBS has close relationship with the Mainichi Newspaper; Fuji Television with Sankei Newspaper; ABN with Asahi Newspaper; and Tokyo 12, the newest Tokyo-based broadcaster, with Nikkei Newspaper. Ironically, however, this has long been a controversial issue as far as the prohibition of the cross-media ownership is concerned. It seems to be difficult to find a clear logic behind the fact that the State allows any media conglomerate owns a television station, while it is prohibited in the Broadcast Law.

Quite in contrast to the NHK, the operation of commercial television broadcasting has been limited to within their regions. Originally licensed for the purpose of local operations, commercial television broadcasters are not allowed to form a network such as NHK. The Broadcast Law prohibits conclusion of program supply contracts that are of an exclusive or monopolistic nature between broadcasters. Each commercial broadcaster, however, has informal network arrangements through affiliate relations with one or more of the major Tokyo-based broadcasters in a form of news network (see Table 5.2.).

For many years, commercial broadcasters' concern over the State's imbalanced control has been raised and echoed, claiming an equal standing with NHK at least on legal terms. These claims, however, have been met by the government's justification of the need to harmonise the freedom of the speech guaranteed in the Broadcast Law. 'There is no imbalance in the control of television broadcasting between the NHK and commercial broadcasters. Since there are more commercial channels than the public, we put more emphasis on the NHK to maintain the balance (Interview with the Deputy Director, Public Affairs & International Affairs, MPT, 13/7/1994).'

The commercial broadcasters' more recent concern on the imbalanced treatment has been also noted when the MPT announced the possible channel allocation of the BS-4 Satellite which is due to launch in 1997. Amongst the initial 4 channels out of 8 possible from the BS-4, only one channel is to be allocated to the commercial broadcaster for local service (as of September 1995, commercial operator is not decided). The allocation of additional 4 channels also remains to be decided.

Table 5.6. shows that there has been no significant changes in the control over operation until 1993, when minor changes were made in ownership. It is, however, worth noting that while the foreign ownership and investment have been partly allowed mainly for promoting local cable television industry since 1994, they are now also visible in the over-the-air television service. For example, foreign ownership in the Nippon



Television Network stood 18.29% in 1996 (*The Asian Wall Street Journal*, 9/2/96), and Rupert Murdoch's News Corporation is planning to take 11% of shares of the Asahi Television (*Dong-A Ilbo*, 26/6/1996).

Table 5.6. - The State control over television operation in Japan since 1953.

	Management		Ownership		
	Personnel affairs	Financial affairs	#Foreign ownership	Cross-media ownership	Foreign invest
1953-1988	indirect	*obliged	prohibit-ed	prohibit-ed	prohibit-ed
1989-1992	indirect	*obliged	restrict-ed	prohibit-ed	prohibit-ed
1993-	indirect	*obliged	restricted	**allowed	**allowed

\*obliged: Applies to NHK only

#Foreign ownership: restricted - Less than 20% of total shares.

The State's control over the management of television broadcasting operation is more evident in the case of NHK than with the commercial broadcasters. The Broadcast Law stipulates that the NHK is a public broadcaster independent from State interference. Except for the approval of its budget by the Diet, the Law guarantees its independence in the day-to-day operation of television broadcasting. On the surface this appears to be observed in practice, as seen in its structure of governance. It has its own Board of Governors, a highest decision-making body, which is responsible for NHK's financial, operational and programme management. The powers vested in the Board of Governors are meant to ensure freedom of expression in broadcasting and independence from outside influence, including political pressure.

However, a feature worth stressing in the relationship between the State (especially the MPT) and television broadcasting is that the State has exercised its control over the personnel affairs of NHK, particularly in its influence over the composition of NHK's management. This control, however, has never been exerted in open and transparent fashion.

The exertion of State control over personnel affairs has been typically achieved by way of 'amakudari' which literally means 'coming down from above'. In this process, the MPT's practice has been to arrange for the appointment of officials of the MPT, before or after their retirements, to positions (normally top positions) in the NHK. Opposition to this appointment by the broadcaster has rarely been expressed.

A similar type of State's control over personnel affairs has, although less frequently, been also exerted in appointing top positions in the commercial broadcasting stations. However, an attempt to maintain its control on a commercial broadcaster by appointing former-MPT personnel is expected to meet strong challenges from many other commercial broadcasters. On the other hand, the MPT's attempt to maintain control over personnel affairs in a single organisation (NHK), has been made without serious challenges.

'NHK cannot say 'no' to a person who is supported by the MPT. For NHK, there is no way of expressing its dissatisfaction, except through the NHK Labor Union. However, the Union also has

never taken any action on that matter. In the worst case, the NHK has been compelled to accept the person (Interview with a former NHK employee, 25/8/1995, Melbourne).'

This statement clearly supports an argument that the MPT's interests in and power to control the NHK, although appearing to be minimal, have been expressed and exercised without any visible and exposed opposition. The rationale for exercising such implicit influence and power over the NHK has never been publicly or formally explained.

One explanation of this close relationship, at least from the State's point of view, between the State and the NHK can be found in the State's historical attitude to the NHK. Indeed, the State's attitude to the NHK - the oldest broadcaster established before the W.W. II - since 1953, has been to firmly preserve it as a public broadcaster. This attitude still remains unchanged. The State encourages NHK to play a leading role in developing television broadcasting (MPT Press Release, 29/3/1995).

However, the relationship between the State and the NHK can be more precisely understood in its structural enforcement. Like other public corporations in Japan, the State describes the relationship with NHK in polite and cooperative terms, but bureaucratic instincts suggests that the State has the force of direction where necessary (Bingman, 1989). All 12 members of NHK's Board of Governors are appointed by the Prime Minister

with the consent of Diet. Also, financial matters of the NHK are stringently overseen by the State. In addition to the approval of budget and financial plans, NHK must obtain approval of amount of reception fee from the Diet. These structural enforcement has enabled the State to interfere at will.

#### 5.3.2. The Degree of State Control over Programming.

Television broadcasters in Japan have enjoyed relative freedom in programming from the beginning (Table 5.7.). Over the developmental period, the fundamental belief maintained by the State has been in the provision of broadcasters' autonomy in compiling programmes with the aim of fulfilling its social role (Nakajima, 1971). Indeed, the Broadcast Law provides abstract and minimum rules in compiling the programmes as follows (Art.3-2), leaving detailed standards at the hands of broadcasters.

- 1) not to disturb public security and good morals and manners;
- 2) to be politically impartial;
- 3) to broadcast news without distorting facts;
- 4) as regards controversial issues, to clarify the point of issue from as many angles as possible.

The same law, however, does not stipulates any penalties for the violation of these rules. Implicit from this is that, the disregard of these rules may lead to the suspension of a

broadcaster's license or revocation of relicensing. While the State maintained a view that these rules should assure the ethical nature of the programmes (Ashibe, 1981), how to observe these rules has been left to the discretion of each broadcaster. In practice, however, the Japanese regulators' careful attention to freedom of expression makes these rules rather more precatory than dogmatic (Hamada, 1987). A fundamental issue raised from this 'ethical and precatory' rule in programming has been the lack of legal specification on these rules, which may result in different interpretations of the same rule.

Table 5.7. - The State control over television programming in Japan since 1953.

	1953 - 1967	1968 - 1988	1989 -
Censorship	self-regulation		
Code of value	self-standard		
Foreign materials	no restriction		
Broadcast time	no limitation		
Minimum of cultural programs	30%	balanced with other types of programmes	
Advertising time	18%		
	The % is a guideline set by the NABJ.		
Other restrictions	Establishment of in-house Program Review Board in each broadcasting station		

The obligation of meeting a minimum percentage of cultural/educational programmes was once imposed in 1957 when the establishing television stations were issued experimental

licenses. The MPT stipulated that at least 30% of the total broadcast time should be devoted to cultural and educational programmes (NHK, 1967). This, however, was soon dropped, and in a form similar to the general programme rules, the broadcasters have been required to maintain harmony among the cultural/educational, entertainment, and news programmes.

This kind of press freedom, on the other hand, is limited not by the government decree or sanctions but by self-regulatory practices and customs which have long been dominant among the broadcasters themselves (Lent, 1980). Good examples are consensus news reporting and mainstream orientation programming.

Although the Broadcast Law does not restrict the amount of foreign programmes, the proportion of foreign programmes on Japanese television is less than 8% (NHK, 1995b; ATP, 1991). The reasons for this could be found in the fact that local programming dominates local market because it has sufficient market, and it is not necessary to buy foreign programmes (Winton, 1991b). Another speculation which can be made is that there is a set of cultural factors which clearly makes Japanese programmes more acceptable than foreign ones, such as emphasis on the Confucian values and local issues.

Arguably, it can be said that State intervention in programming in Japan has been minimal in that the specific programme guidelines are left to the television broadcasters themselves.

This means that there is apparent harmony between the State and the television broadcasters in programming. This is further evidenced from the fact that the MPT's ability to reinforce content restrictions either in a form of administrative guidance or through formal procedure has been limited. Since the Broadcast Law does not empower the MPT to intervene in programming content in any form, the MPT has relatively few sanctions to impose on broadcasters. This is clearly shown in the fact that the MPT's ultimate threat, the threat of relicensing denial, has rarely been realised.

However, there seems to be political influence on programming that is exercised in a direct and blatant fashion, which may not be regarded as an intervention in the Japanese concept of State intervention. The practice of this political influence on programming tended to take place outside the legalistic structure. In this practice, the MPT's ultimate threat of relicensing denial has been made.

A good example is when the Diet interrogated the news director of TV Asahi, over alleged bias in the news coverage of the 1993 (July) Lower House election, claiming that his report helped install non-LDP coalition government. Although the Diet could not find solid evidence for TV Asahi's particular bias (Asiaweek, 24/11/1993), the MPT threatened to review TV Asahi's licence which was to expire in October 1993. As a consequence, the MPT's formidable threat resulted in the resignation of the

news director and the apology and summoning of the President of TV Asahi (*Nikkei Weekly*, 1/11/1993).

Earlier, another incident of the State's intervention in programming had been evident in 1988 when the NTV secretly shot a video of a Diet member who was offered a bribe. The State (Tokyo District Public Prosecutions Office) seized the tape after the Supreme Court's decision that the incident necessitated an unavoidable restriction of the press (Dentsu, 1989:196).

These two examples clearly demonstrate that the State, while providing the appearance of freedom in television programming, has exerted its political influence on programming at least in matters in which the political actors' power is challenged or threatened. This, in turn, has brought upon the television broadcasters a great deal of pressure to avoid any possible conflicts with the State in the future. Another observation which can be made from these examples is that the apparent harmony, which exists between the State and the television broadcasters in programming, albeit on the surface, appears to be mainly due to the self-censorship which the broadcasters practice in anticipation of the State's disapproval.

After the Asahi incident in 1993, a great deal of concern was expressed on the freedom in television programming guaranteed in the Broadcast Law and the boundaries of self-regulation exercised by each broadcaster. MPT's major concerns were on



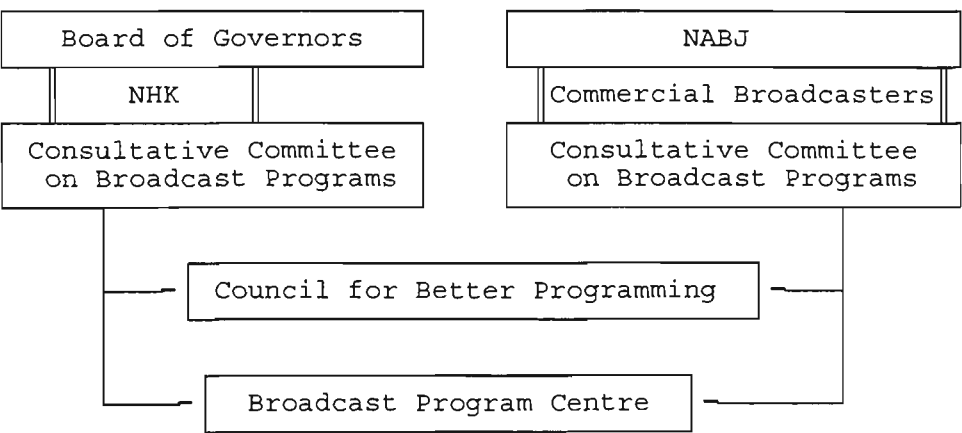
proper, unbiased programming (especially political news), and on how to regulate television programmes if there is damage done to the viewers. Unlike other Western countries where complaints and conflicts on programming are addressed and minimised through the mediating system/channel, in Japan, there has been no such a system which can connect the State and television broadcasters. In this respect, it is worth noting some signs of the growing concern about the need for a mediating agency in Japan.

After the Asahi incident in 1993, the MPT, as a sole regulator, soon recognised the need for a better way of regulating television programming. As a consequence, the MPT commissioned a Special Committee (Study Group on the Relationship between Viewers and Broadcasting in the Multi-Channel Era) in September 1994. The Committee aimed to review broadcasting regulation in multi-channel era and to recommend on television programming and viewers (MPT Press Release, 13/9/1995). With its final report to be made at the end of 1996, the establishment of mediating system is to be one of the major issues of the Committee.

It is, however, important to note that the establishment of such Committee itself has been seen as State's direct intervention on programming especially by commercial television broadcasters. 'No matter how good recommendations the Committee makes, commercial broadcasters are not satisfied with the Committee itself. Each television broadcaster already has its

own internal programme advisory body. Furthermore, within the NABJ, we have a similar programming committee (Interview with the Secretary General, NABJ, 16/1/1996).'

Table 5.8. - Self-regulatory structure of television  
broadcasters on programming in Japan.



Indeed, as can be seen from Table 5.8., each television broadcaster has both internal and external self-regulatory structures. The NHK's Board of Governors is in charge of deciding the management and other matters relating to the operation of the NHK. The power is also given to the Board in relative to the observation of NHK's Standards of Broadcast Programs and the basic plan for the compilation of broadcast programmes (Art.14). The National Association of Commercial Broadcasters in Japan (NABJ), on the other hand, is a voluntary organisation with its members comprised of the commercial broadcasters. Its main objectives includes the enhancement of broadcast ethics; the solution of problems common to commercial broadcasters; and negotiation with the government (agencies) regarding problems of broadcasting (NABJ, 1994).

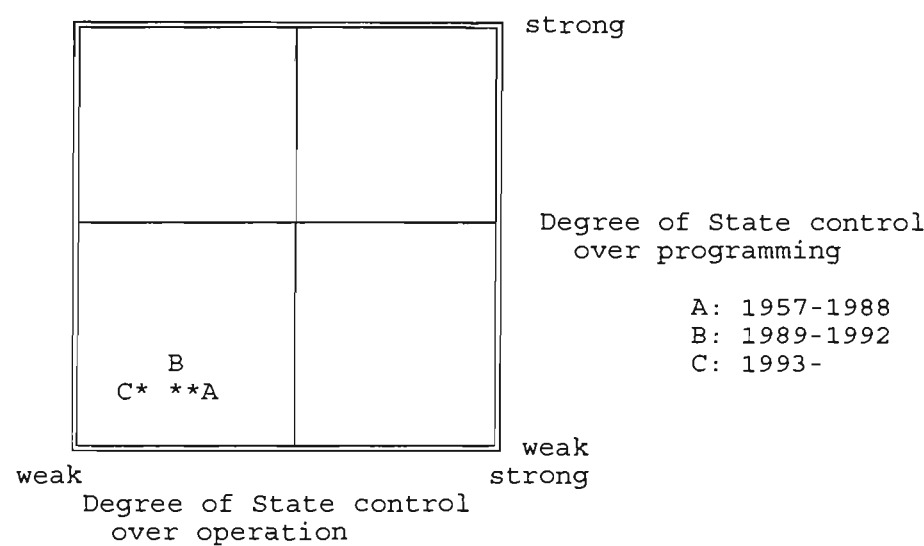
Each television broadcaster is required to have an in-house Consultative Committee on Broadcast Programs in order to maintain the appropriateness of its programmes (Art 3-4). The Broadcast Law also requires both NHK and the commercial broadcasters to jointly establish a Broadcast Program Centre in order to collect, store, and provide information concerning broadcast programmes to the public and the broadcasters (Art.53-2). Due to its public nature, the head of the Centre is appointed by the MPT. The Centre is required to submit its business plan and report to the MPT, and the MPT can also issue orders relative to the Centre's activities.

Therefore, the underlying implication behind the State's establishment of the Special Committee, despite the self-regulatory structure mentioned above, is that the State has become questionable about the functions of television broadcasters' internal and external self-regulatory bodies. This suggests that the MPT can further control television broadcasting at will by establishing a self-justifiable mechanism, such as the Special Committee, under its arm. From the broadcasters' point of view, however, the establishment of such a Committee has been seen as a clear indication of State's intervention in programming.

Diagram 5.1., which is based on subjective judgement, shows that the State's control over television broadcasting in Japan has been towards the extreme weak end. It also shows that the degree of State control over programming has been virtually

unchanged over time. This means that, apart from general programme principles, the broadcasters have had relative freedom in programming, but within a structured set of limitations. The trends in the State's control over operation, on the other hand, has become weaker with the emergence of new broadcast technologies, as shown firstly in the revision of Broadcast Law in 1989 which paved the way for broadcasters to engage in new broadcast media, and secondly in a series of deregulation of cable and satellite television services in 1993 and 1994, respectively.

Diagram 5.1. - Trends of State control over television broadcasting in Japan.



One of the major implications drawn from this trend is that the relationship between the State and television broadcasters in Japan has been close, because the degree of compulsion imposed upon the television broadcasters in programming and operation has been minimal. To put it differently, the legal constraints which define the rules and regulations over programming has

been rather loose, while other constraints, such as structural, on the operation of a television broadcasting such as ownership restriction and the appointment of the member of the Board of Governors of NHK by the Prime Minister has been less loose. This conversely indicates that with relative lack of enforcement, the relationship between the State and television broadcasters has remained close. This point is further discussed in the following concluding section.

#### 5.4. Conclusion to Chapter Six.

In the broadest sense, the degree to which the State has exerted its control over television broadcasting in Japan can be best comprehended as an unaltered regulatory tradition in which the State bureaucracy has played a central role in the operation of television broadcasting. One significant fact noted in the review of the development of the regulatory structure in Japan is that although some sporadic questions were raised about the role of the MPT, the need for a mediating mechanism or agency has never been on the agenda until very recently. Given that all regulatory functions over television broadcasting in Japan has been, from the inception of television broadcasting, exercised by a single regulator (MPT), the creation or establishment of physically identifiable agency might have been seen as a serious challenge to regulatory tradition.

Very much in the similar vein, the State bureaucracy has not been willing to create mechanisms of access and accountability which render television broadcasting genuinely independent of Government. Instead of creating the structure which is physically open to control by outsiders, the State's control over television broadcasting has been exercised through the discretionary negotiation amongst those who are involved. This means that although there has been no physically identifiable mediating regulatory mechanisms or agencies in Japan, the mediating functions are dispersed and performed by other individuals and agencies within the State bureaucratic structure.

Japan's case clearly shows that the gap both between the State bureaucracy and television broadcasters, and between the legislative regulation and bureaucratic practice have been minimal. Several points noted throughout this chapter can explain the close relationship between the State and the television broadcasters. First and foremost, the relative lack of legal enforcement in regulation has provided television broadcasters a high degree of freedom in programming and operation. For example, the practice of meeting general programming principles set in the Broadcast Law has been mainly left to individual broadcasters. In the case of commercial television broadcasters, the self-regulatory practice has been collectively exercised by the specific guidelines and rules set by the NABJ, a voluntary organisation composed of commercial broadcasters.

Another point explaining the close relationship between the State and television broadcasters can be found in the mutual consent in broadcasting interests and/or principles, which has been either shared by each other or achieved through an implicit accommodation generated by the State. In this regard, however, it is worth noting that the relationship between the State and the public broadcaster (NHK) has been closer than that between the State and commercial broadcasters. This has been particularly true in the development of satellite television broadcasting, in which the preference has been given to the NHK.

However, the Government bureaucracy has not always exercised explicit and direct control of television broadcasting. The relationship between the State and the television broadcasters in Japan can also be observed on the basis of two specific measures which has been continuously exercised by the State for controlling the broadcasters; administrative guidance and control over appointment of senior personnel. Arguably, it can be said that the relationship may be close partly from the fact that the Government's administrative guidance has worked without any serious challenges by the broadcasters, and partly from that the State has continuously practiced, what Latzer (1995) called, the 'institutionalised exchange of personnel' through which former Government members are employed in higher positions in television industries.

However, whether these two measures of control qualify for explaining the closeness of the relationship between the State and television broadcasters on equal and open terms remains highly questionable. It is mainly because, from the point of view of the television broadcasters, those measures are seen as a common practice in the regulatory tradition of television broadcasting in Japan under which the threats have been reserved on the State's side.

Based on the observations made above, it may be proper to conclude that the closeness of the relationship between the State and television broadcasters in Japan has been maintained and reinforced to the extent that the legal enforcement is minimised and the broadcasters' attitude of self-restraint to the State's practical intervention is accommodated without overt challenges.

State control over television broadcasting in Japan has been coupled with the public's traditional respect for State authority. However, this respect has not been significantly matched with the public's expectations from television broadcasting. Furthermore, the State's intention of keeping its distance from the public has been noted in the traditional nature in the policy-making process of television broadcasting. The tripartite structure which composes of Government, ruling party, and the television industry, hardly considers or reflects the public voice. Therefore, while the Japanese State has maintained a relatively close relationship with the

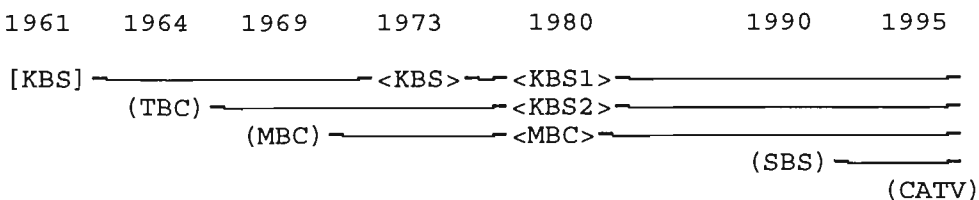


television broadcasters, whether its regulation over television has been accountable for the public still remains open to question.

# Chapter Six - The Role of the State in Television Broadcasting in Korea.

Television broadcasting in Korea has undergone various changes (Table 6.1.). It started as national broadcasting which was owned and operated by the State; then it came to consist of commercial and national/public broadcasting; then it became a monopoly of public broadcasting, and it is currently a duopoly of commercial and public broadcasting. The justifications behind these changes have also varied within the political context of each phase. The traditional relationship between the State and television broadcasting in Korea has been mainly an enforced one, in which the State has forced the television broadcasters to fit in with the State's priorities and interests. Even with the recent development and introduction of satellite television, the enforced relationship by the State still remains unchanged.

Table 6.1. - The development of television broadcasting structure in Korea.



- [ ]: National broadcasting
- < >: Public broadcasting
- ( ): Commercial broadcasting
- CATV: Cable television
- KBS: Korean Broadcasting System
- TBC: Tongyang Broadcasting Company
- MBC: Munhwa Broadcasting Company
- SBS: Seoul Broadcasting Company
- CATV: 31 cable television channels

This chapter first reviews the regulatory history of television broadcasting, with an emphasis on the changing nature of the regulatory structure. It then reviews the historical relationship between the State and television broadcasting by looking at the features of State intervention which have affected the development of operation and programming in television broadcasting in Korea. Finally, the main features of State intervention are specifically identified by examining the mode and degree of State control exercised in the area of operation and programming.

#### 6.1. Regulatory History of Television Broadcasting.

Before examining the relationship between the State and television broadcasting, it is appropriate to review how the history of regulation of television broadcasting has shaped and developed its structure and operation. In liberal democratic countries, the gap between the legislative regulation body and the State bureaucratic regulatory agency is expected to be minimal because there are other control mechanisms or structures which oversee any breaches of respective obligations defined in the legislation. In Korea, where the authoritarian State controls television broadcasting, the gap between the two has been at a maximum level.

6.1.1. Major Regulators.

The regulatory structure in Korea has been characterised by a strong centralised bureaucratic-authoritarian State. Currently, State control of television broadcasting in Korea is exercised by four major regulators: the Ministry of Information (MOI), the Ministry of Communication (MOC: recently renamed as MIC, Ministry of Information & Communication), the Korean Broadcasting Commission (KBC), and the Korean Cable Communications Commission (KCCC). The structuring and restructuring of the regulatory regimes has been coupled with successive changes of the government (Table 6.2.).

Table 6.2. - Regulators and relative legislative laws.

Regula -tor	Main function	Relative law
MOI	Administration of broadcasting policy & supervision over broadcasters	Government Law (1948)
MOC	Licensing and supervision of broadcasting facilities	Radio Frequency Control Law (1961)
KBEC	Self-regulation on programmes	Broadcast Law (1963 & 1973)
KBC	Supervision of broadcasting programmes and provision of policies for the MOI	Basic Press Law (1981) Broadcast Law (1987 & 1990)
KOBACO	Selling of broadcast time for advertisements	Basic Press Law (1981)
KCCC	Supervision of cable broadcasting	Cable Broadcast Law (1989)

The MOI is a major regulatory body which is in charge of administering broadcasting policy and supervising the broadcasters. The Radio Frequency Control Law of 1961 empowered

the Ministry of Communication to issue, cancel, and renew broadcast licenses. When one of these cases occurs, the Minister of Communication has to consult with the Minister of Information. Therefore, while licensing power is being exercised by the Ministry of Communication, actual supervision over the broadcasters becomes the responsibilities of the Ministry of Information.

Apart from the State bureaucratic regulators, the MOI and MOC, the State also has introduced mediating agencies, the KBEC, KBC, KCCC, and KOBACO. The performance of these mediating agencies has depended on their relationships with the State bureaucracy on the one hand, and their structural features and functional boundaries on the other. However, the vagueness of responsibilities and the inadequate separation and definition of functions allowed to regulatory bodies, have demonstrated that the nature of regulation has been flawed in principle and practice.

#### 6.1.2. A Self-Regulatory Body?: The Korean Broadcasters' Ethics Commission in the 1960s and 1970s.

As in other developing countries, television broadcasting in Korea was introduced as a useful tool in pursuing government policies and interests. When television was first introduced in 1961, it was under the control of the Bureau of Broadcasting Management, Ministry of Culture & Information (MOCI: now MOI). The MOCI, which was empowered to control broadcasting under the 1948 Government Law, was responsible for promoting broadcasting

activities and establishing criteria for broadcasting programmes (Hahn, 1978).

Prior to 1963 when the Broadcast Act was established, with the exception of the basic guidelines on programmes, virtually no law relative to television broadcasting had existed (Paeng, 1986). This indicates clearly that television broadcasting in Korea was introduced within the absence of a regulatory framework. This is seen as an important factor which explains the instability of the regulatory framework in the early decades of television broadcasting in Korea.

The Broadcast Law enacted in 1963 defined the basic function of broadcasting and provided guidelines for the establishment of a self-regulatory body, KBEC (Korean Broadcasters' Ethics Commission). The KBEC, which was comprised of representatives of all broadcasters, imposed the code of ethics upon each of the broadcasters and used it to review programmes and broadcasting activities. The code of ethics, however, was adopted for purely practical reasons, including the need to forestall official regulation by the government (Choi, 1976), rather than for providing a broader set of principles to underpin policies and practice and the development of goals.

Although the KBEC's main function was self-regulation, its self-regulatory practice was not performed effectively not only because it did not have any power to control or to intervene directly in programming, but also because its members, the

representatives (presidents) of broadcasters, were not broadcasters themselves (Hahn, 1978:42). Furthermore, since the main source of financial support for the KBEC was the media industry itself, it could not maintain neutrality.

The revision of the Broadcast Law in 1973 altered the role, functions and the power of the KBEC. Previously a self-regulatory body among the broadcasters, the KBEC, became a regulatory agency with a legislative base, which empowered it as an authority over the television broadcasters based on its code of ethics (Art.5). Ironically, however, the same law also empowered the MOI, making it the ultimate licensing power (Art.6:5). While matters relating to the issuing, renewing, or canceling of licences were within the power of the MOC as stipulated in the Radio Frequency Control Law, the provision of overlapping licensing power to the MOI was a clear indication of tightening State control on television broadcasting (Park K., 1985). This also could be seen as a measure designed to exercise more rigid control, reducing the gap to a minimum between the legislative law and State regulatory practice.

#### 6.1.3. Establishment of the Korean Broadcasting Commission.

In 1981, the Broadcast Law was absorbed and replaced by the Basic Press Law combining all existing media laws into one. It stipulated the obligations of the media. The adoption of the Basic Press Law led to a major change in the media structure,

including a merger of all existing commercial broadcasting under the umbrella of public service broadcasting. As a result, the TBC (Tongyang Broadcasting Company), a commercial broadcaster, was merged into the KBS, renamed KBS 2, and the ownership of the MBC (Munhwa Broadcasting Company) was handed to public bodies - KBS: 70%, a semi-government education institute: 30% (Park Y., 1987).

This major change was, of course, not introduced without State justification. On the surface, while recognising that the fierce competition among commercial television broadcasters led to low-quality and homogeneous programming among them, the State emphasised the provision of better quality programming for the general public. In the name of press responsibility and public interest, the Basic Press Law denied the media its self-regulatory role as a watchdog and as a forum for the expression of various opinions on controversial issues (Won, 1991:30).

*KBC: Merely a Deliberative Function? (1981-1987)*

The Basic Press Law described the main function of the Korean Broadcasting Commission (KBC) as being 'to deliberate basic matters on broadcasting operation and programming (Art.34:1 & 35:1).' At the same time, the existing KBEC was replaced by the Deliberative Commission (DC) under the KBC. The DC screened programmes based on the deliberative rules, and the KBC could order correctional and disciplinary measures to be taken against broadcasting stations which violate the rules.



The rationale behind the introduction of the KBC was to transfer some of the controlling authority, which was traditionally held by the MOI, to the seemingly independent body. The major responsibility of the KBC was to screen the programmes, mainly dramas and foreign programmes, and to decide whether the broadcast should be given approval. Despite these functions, from the beginning of its operation in 1981, the functions of the KBC was not well known by television broadcasters, and it served the political purposes of the State (Park Y., 1988). The creation of the KBC represented its desire for strong control over broadcasting, and it did not alter greatly the situation which already existed in practice.

The Law guarantees the KBC's independence from any external interference (Art.16). However, given the fact that all nine members, none of them a full-time member, of the KBC were appointed by the President with the recommendation of State sectors (Supreme Court, National Assembly, and the ruling party), maintaining a distance from the State was not possible.

*KBC: More Authority but No Power. (1987- )*

The newly-elected President of Korea, Rho, guaranteed the freedom of the press by stating that 'the government should not resort to force against the press to attain its objectives as it did in the past (*Chung-Ang Ilbo*, 17/3/1988).' As a result, the Basic Press Law has been replaced with two separate laws. The Act Governing Broadcasting was changed and became the

Broadcast Law, and at the same time, the existing Korean Broadcasting Commission (KBC) was given additional power and authority.

First of all, the range of broadcast materials screened by the KBC was further expanded to include local dramatic films and cartoons, and advertising material which was previously screened by KOBACO (Art.17). Secondly, from its previous deliberative function, the new law stipulated the KBC's main function as being 'to maintain public responsibility, impartiality and publicness of a broadcast and to strive for the qualitative improvement of general contents of the broadcast (Art.11).' This was a clear reflection of the State's intention to maintain public service broadcasting and strengthening the boundaries and principles of its objectives.

The existing DC was replaced within the KBC as an assisting council to it. It screened programmes based on the deliberative rules, and the KBC could order correctional and disciplinary measures, such as cancellation and suspension of the production, against the broadcasting stations which violated the rules. There was, however, no mechanism which could play a mediating role between the KBC and the television broadcasters. For example, for a broadcaster or producer who was not satisfied with the KBC's decision, there was no legal or structural provision to respond.

While the freedom of broadcast programming was guaranteed by the Broadcast Law (Art.3), any misunderstandings and possible disputes between the regulator and the television broadcasters in the then-current fixed regulatory infrastructure remained largely outside the KBC's capacity to resolve. In this respect, the authority given to the KBC was very limited because it did not have any legal power to cancel a licence nor did it have any political independence. This situation has meant that the KBC was placed in effect under the control of the MOI in exercising its supervisory responsibilities over programming content. In these circumstances, 'the independence of the KBC is unthinkable, unless there is weakening of MOI's authorities (Park H., 1993:32).'

#### 6.1.4. The Regulators for the New Broadcast Media.

The introduction of the new broadcast media was clearly the major policy-making concern of the State from the end of the 1980s. In addition to cable television which was pledged by the Rho government, satellite television and local commercial television broadcasting were guaranteed by the new government led by President Kim who was elected in 1993 as the first civilian since the late 1950s. The rationale behind the introduction of these, among others, was firstly to meet the public demands on diversity, and secondly to follow the worldwide trends of new media by opening up the television market.

It may be premature to evaluate the exact role of the State in introducing these media within its television infrastructure. In respect to the introduction of cable television, the regulatory structure has been to place cable television under the same control framework as the State has exerted in terrestrial television broadcasting. The results of this were the establishment of the Cable Broadcast Law in 1989 and a separate regulatory body for cable television, the KCCC (Korea Cable Communications Commission).

A plethora of debates and reports on satellite broadcasting in the early 1990s led to a Draft Satellite Broadcast Law in the middle of 1993 (Report on the Satellite Broadcast Law, 1993). However, the ambiguous boundaries of regulatory structure concerning satellite television resulted in interministerial conflict. The lack of consensus among the State regulators has been noted in various policy areas on satellite television.

The conflict was first evident over what mode of satellite broadcasting would be adopted. While the MOC, who is in charge of all electronic communication infrastructure, preferred digital mode, the MOI who oversees contents and services wanted analog mode. Another conflict was about when to start satellite television. The MOC wanted to maintain the original plan of starting in 1996, however, the MOI has announced the postponement of DBS from 1996 until the end of the decade due to technical and budgetary problems (A & M, 22/Oct/1993).

#### 6.1.5. Attempted Change of Broadcast Law.

The State's concern about the control over television broadcasting became more imminent with the launch of Communication Satellite in the middle of 1995, which will be used for satellite television in Korea. The MOI's response to this was the provision of Five-year Plan for Advanced Broadcasting Policies. The Plan was mainly based on the recommendations made by two separate reports; the Report on the Development of Public Broadcasting, commissioned by the KBC in 1994; and the Report on Broadcasting Policies for 2000, commissioned by the KBI (Korean Broadcasting Institute) in 1994 (Table 6.3.).

Despite some of major differences, all three reports include a recommendation on the fundamental change of the existing Broadcast Law, which was made in 1963, two years after the start of television broadcasting in Korea. Based mainly on its own report, the MOI proposed the New Broadcast Law at the end of 1995, which would replace the existing Broadcast Law and Cable Broadcast Law.

The proposed New Broadcast Law, from its introduction, was denounced by the critics including opposition parties, various broadcast unions, and academics, as a means of further tightening the State's control over television broadcasting. The most controversial issues containing in the proposed Law were the range of the State's regulatory power, the level of

authority of single mediating agency which would oversee terrestrial, cable, and satellite television, and the permission of business conglomerates and newspaper companies to participate in satellite television which is due to start in the middle of 1997.

Table 6.3. - Comparison of major recommendations made in the three reports.

Report on	Development of Public Broadcasting	Broadcasting Policies for 2000	Advanced Broadcasting Policies
Provider	KBC	KBI	MOI
Period	7.'93 - 3.'94	7.'93 - 7.'94	6 - 12.'94
Main aim	Public nature of broadcasting	International competitiveness of broadcasting	Public nature & international competitiveness of broadcasting
Recommendations			
Mediating regulator	*Single body	*Single body	*Single body
Licensing power	Mediating regulator	Mediating regulator	MOI & MOC
Supervision on TV	Mediating regulator	Mediating regulator	MOI

\*Single body: single mediating body which oversees terrestrial, cable, and satellite television.

Sources: Five-year Plan on Advanced Broadcasting, MOI, 1995; Report on the Development of Public Broadcasting, KBC, 1994; and Report on Broadcasting Policies for 2000, KBI, 1994.

As defined in broadly similar terms in the existing Broadcast Law, the proposed New Broadcast Law empowers the MOI & MOC to exercise licensing power, and authorises the MOI to maintain its control over operation and programming of television broadcasting. Furthermore, an additional item (Art.66-1), which authorises the MOI and MOC to investigate television

broadcasters and ultimately impose serious penalties on them when needed, was later attached to the proposed Law (*Chung-Ang Daily*, 29/11/1995). From this, it becomes evident that the proposed Law strengthens rather than reduces the power of State regulators (MOI & MOC). This, at the same time, means that the power of the would-be mediating agency would be reduced rather than strengthened.

After a number of discussions and negotiations amongst the political parties, including opposition parties, the proposed New Broadcast Law was about to be tabled in the Parliament, and was expected to pass in the Parliament. However, just before being tabled in the Parliament in early December, 1995, where the ruling party has slightly outnumbered in seats, the proposed New Broadcast Law was shelved until next Parliamentary session (*Media Today*, 13/12/1995). The final decision came directly from the Blue House (Korean equivalent to the White House in the US). It announced that the adoption of the New Broadcast Law would be postponed until next Parliamentary session. 'That decision was really so sudden. All believed the proposed New Broadcast Law would pass in one way or another. Nobody expected the Blue House's veto, even the Minister of Information and the Minister of Communication (Interview with Senior Research Fellow, KBC, 22/1/1996).'

Several observations from this sudden change are worth mentioning. Partly, it was due to the several controversial issues that failed to get support from the general public and

television broadcasters. And, partly it was also because the broadcasters' union's ultimatum of strike, including the stoppage of all the activities about television operation including production, might be regarded as a serious threat to the Government.

The most profound reason for the postponement of the proposed New Broadcast Law, however, is to be understood in the political context. At the end of 1995, politics in Korea was dominated by big political scandals. Former President Rho and his predecessor President Chun were charged for receiving the slush funds from the business conglomerates during their presidency, together with mutiny and sedition charges linked to their roles in a 1979 coup and the 1980 massacre of hundreds of pro-democracy demonstrators in Kwangju. At the same time, facing with the coming General (Parliamentary) Election in April 1996, both the Government and the ruling party had to minimise the potential damages caused by the big scandals. In this political context, the hasty passing of the controversial New Broadcast Law could place the Government in a worse position. Undoubtedly, given that the majority of broadcast-related laws in the past, such as Basic Press Law in 1981 and Cable Broadcast Law in 1989, were proclaimed without a slight consent neither from the opposition parties nor from the general public and broadcasters, the present Government, led by Kim, the first ever civilian-elected President, did not want to give a profile similar to the previous Governments.



The regulatory practice of television broadcasting, as evidenced in the most recent development of regulatory structure, clearly supports an argument that any major changes and the formation of regulation over television broadcasting in Korea have been made dominantly in the political context.

#### 6.1.6. Policymaking Process on Broadcasting in Korea.

At this point, it is worth noting the policy-making process of television broadcasting in Korea. First and foremost, broadcasting policy always has been simply stated or announced after all decisions had been made within the government bureaucracy, namely, the Blue House and MOI (Jung, 1993). In this process, the participation and input from other State authorities, such as Parliament, the Supreme Court have been minimal, and the public's role has been minimal or not even considered.

For example, the Broadcast Law of 1963 and the Basic Press Law of 1981, were passed not in the Parliament, but in the National Security Council, an interim super organisation which was established in a situation when any political activities of the Parliament and other opposition parties were prohibited (Park, 1988). Another example is the revision of the Broadcast Law. This law was passed in 1990, with the support of only pro-government legislators, namely the members of the ruling party attending the National Assembly.

It is also worth noting that when the MOI is making broadcasting policies, the advice of the KBC and broadcasting experts has hardly been sought, nor has it provided any opportunities for public hearings or seminars on the issues. In that process, the views of other related State bureaucracies, such as MOC, have been partially considered (Jung, 1993). This means that, until very recently, when the State recognised and began to consider the challenges posed by new broadcast technologies, the process of broadcasting policy development had not been open to influence or scrutiny.

The most vivid example of the influence of the highest power structure, that is, the Blue House, in the policy-making process of television broadcasting, is well illustrated in the attempted change of the Broadcast Law in late 1995, when it was shelved by the President's veto (see section 6.1.5.). This example, however, is hardly surprising when we consider the Korean Government system, in which most powers are concentrated in the hands of the President. Television is no exception to this power. It becomes evident that the President's ultimate veto power on broadcasting policy can be exerted at his will.

## 6.2. The Relationship between the State and Television Broadcasters in Korea.

Throughout its existence, there have been significant changes in the structure of television broadcasting in Korea. These changes, without exception, have been made by the political leadership. Surprisingly, as seen in the previous section, the

major regulatory framework which was created in 1963, until recently, remained virtually unchanged with the exception of the creation of a seemingly independent regulatory body KBC in 1981 whose role has been limited to the screening of the programmes, with no licensing power.

The review of the role of the State in the historical development of television broadcasting in Korea clearly shows that the relationship between the State and television broadcasters has mainly been concerned with television broadcasting, serving the interests and priorities of the State rather than those of the public and/or other interests. The State has used television broadcasting to project its aims and goals onto the public as part of the process of shaping and changing society in accord with its vision.

#### 6.2.1. The 'Uncontrolled' 1960s.

The relationship between the State and television broadcasters in the 1960s and 1970s is characterised by the strong State control enforced by the State in pursuit of its interests and its national priorities. The first television broadcaster, the KBC (Korean Broadcasting Corporation - now KBS) was part of the State sector, operated under the control of the Ministry of Culture and Information (now Ministry of Information). Television in Korea, from the very beginning, came under the tight control of the State with its government led by President Park who took power through a military coup in 1961 and

remained in power until 1979. Tight control, however, was not exercised under a specific regulatory framework.

During the economic boom of the 1960s and 1970s, the State, operating as a senior partner to big local capitalists, encouraged business conglomerates to be competitive in the international market. As a result, two commercial broadcasters, the TBC (Tongyang Broadcasting Company), owned by the Samsung Group, and MBC (Munhwa Broadcasting Company), owned by a daily newspaper, were introduced in 1964 and 1969 respectively.

The two commercial television broadcasters, however, were not exempted from State control. The two stations were obliged to report summaries of their broadcasting activities to the State on a monthly basis. As long as commercial television broadcasters shared the State's economic and political interests (Yoon, 1994b), the State was committed to maintaining them in operation. The lack of regulatory framework in the early days of television broadcasting in the 1960s resulted in fierce competition among the broadcasters over programming content and an overabundance of entertainment programmes.

#### 6.2.2. The Tightly Controlled 1970s.

Until the revision of the Broadcast Law in 1973, television broadcasters had a relatively high degree of latitude in the formulation of their programmes. This relative freedom in programme-formation in the 1960s, however, should not be seen

as a result of deliberate relaxation of State regulatory policy which guaranteed freedom of television programming, but as a result of the absence of regulation policies: freedom by default rather than design.

The duopoly system started with the transformation of the State-owned and run KBS (Korean Broadcasting System) into a public broadcasting corporation in 1973, resulting in greater competition in programming. This was mainly because, while allowing the KBS to collect viewers' fees, the KBS Law also permitted advertising. The transformation of KBS into a public corporation, however, did not mean autonomy for the KBS from the State.

With the introduction of the Emergency Law in 1971 and the Restructure of the October Law in 1972, control over television broadcasting was tightened. Apart from the politicisation of television news content which almost completely ignored the opinions and activities of opposition parties, it was also characterised by a blatant propagandistic approach to control over other programmes.

The policy announcements made by the MOCI, although not specified in a legal form, were other ways of controlling television programming as was evidenced from the fact that those policies were all directed to the production and schedule of programmes. This was particularly true in the 1970s when political justifications were reflected in the schedule and

content of programmes. For example, when South Vietnam collapsed in 1975, national security was considered the highest priority by the State and this factor was central and most influential in shaping the whole process of policy and approaches to television programming (Sohn, 1991).

This direct intervention in programming by the State became more intense in 1976 when the State used both public and commercial television for disseminating its information on various issues during prime time, 8:00-8:20 p.m, each day. Furthermore, the MOCI forced all broadcasters to have uniform types of programmes during the same time slots. For example, from 8:00 p.m. to 9:00 p.m., only cultural programmes or documentaries which highlighted national identity were allowed, and entertainment programmes were allowed only after 9:30 p.m. (In, 1986:74). It is interesting to note that comedy programmes were banned altogether at one point in time. With regard to the operation of broadcasters, strict control during this period was exercised by shortening the licence period to one year.

#### 6.2.3. The Continuation of Tight Control, 1980-1987.

The State's control over television broadcasting since 1980 has been justified in terms of the priority given to the political and cultural significance of television. While placing all existing television broadcasting under the umbrella of 'public service broadcasting', the State provided new basis for public service intervention. The notorious guidance system on

programming under which daily guidelines, as to how to deal with controversial issues and topics, had been issued by the government since 1973, became more pronounced under the Basic Press Law in 1980.

#### 6.2.4. Prescribed Freedoms and Controls. 1988-

During the period from 1988 when newly-elected president Rho declared that 'the media should not be controlled by the government', up to the launch of commercial television broadcasting in 1991, there were intense and rich debates on the future of television broadcasting in Korea. The debate which focused on the State's role in television broadcasting was fuelled by the public dissatisfaction with the biased reporting and the poor quality of programmes. This has placed the role of public service broadcasting at the centre of the question.

One of those questions was about the status of the MBC. The peculiar position the MBC has maintained since 1980 is the result of the State's indecision about the MBC's identity. While being placed under the umbrella of 'public service broadcasting', with the exception of its ownership (KBS had owned 70% of MBC stock), public elements, as distinct from business interests, could not be found either in its programming or in its sources of revenue.

The result of this concern was the creation of the FBC (Foundation of Broadcast Culture) which performed the functions of supervising the MBC management (FBC, 1994). Established in 1988 as a non-profit corporation, the Foundation owns 70% of MBC stock, which was previously owned by the KBS, and its Board of Directors appoints the president of the MBC (MBC, 1991).

As the justification of the 1980 media merger was seriously tested in Parliament and in the national hearings, the role of public service broadcasting attracted enormous attention among the public. Recognising this, the government announced the reorganisation of the television broadcasting structure in 1988. The explicit rationale behind this was that the system of public service broadcasting was the outcome of the 1980 arbitrary closure and merger of broadcasting stations. Therefore, it was deemed necessary to reorganise the broadcasting structure in such a way as to meet the demands of Korean society in the 1990s (KPI, 1991).

This restructure was further supported by the report of the BSRC (Broadcasting System Research Committee), the first ever external government-commissioned committee on broadcasting, which recommended the introduction of commercial television broadcasting. It is interesting to note that the BSRC was the first example by the State where an attempt was made to use a public approach to support the government's decision.



In spite of the controversial issues which formed part of the process of selecting a commercial channel, the BSRC could be seen as an important turning point in the relationship between the State and television broadcasters, at least, in that the State considered some of the suggestions made by an external government-commissioned committee in its policy-making process. However, a closer look at State administrative practice in the process of the introducing commercial television reveals that the apparent power-sharing by the State with the public, as reflected in the membership of the BSRC, was more symbolic than real. In reality, the members of the BSRC were appointed by the State and supported the decisions of the State (Kang, 1992; Jung, 1993).

With regard to the role of the KBC, the BSRC recommended that 'the current licensing power which is exercised by the MOC has to transfer to the KBC, and the restrictions on operation (such as monthly report) and programming supervised by the KBC have to be removed (BSRC, 1990:94).' Part of the recommendations were reflected in the revisions to the Broadcast Law in 1990, however, the key issue of the licensing power, held by the MOC, remained unchanged.

The resulting ineffective regulation on programming, together with television broadcasters' excessive competition for high ratings but with low-quality programmes, could be seen as a carbon copy of the broadcasting situation in the 1970s. Yet, while in the 1970s, television broadcasters were responsive

only to the demands of the State, in the 1990s, both the State and the television broadcasters began to realise the interest the public had in all areas of broadcasting and the need to respond to this situation. A small, but significant sign of public influence on television began to emerge. For example, a campaign to turn off television which was launched by the Seoul YMCA Viewers Group in mid-1993 caused the viewership rates to fall by 5% (KPI, 1994:9).

It is also interesting to reflect on whether the sense of responsibility towards the public was the result of the influence television broadcasters exerted on the State, or vice versa. Answers to this question are to be found in an examination of the historical position of television broadcasters towards the public and the specific context in which the State began to take the public into consideration.

#### 6.2.5. The Role of the State in the Development of New Form of Broadcasting.

The experience in Korea thus far demonstrates that State control over television broadcasting, which has been characterised by a strong degree of political control has changed somewhat, with the introduction of new broadcast media. The new developments have been motivated by both cultural and economic factors. Although initiated for political purposes, originally made in an election pledge by the newly-elected President Rho who guaranteed the introduction of cable television, it is important to understand the factors and the

context in which the establishment of cable television was further generated.

Firstly, the State believed that the reception of trans-border signals from Japan since the 1980s, and from Hong Kong since 1992, had unfavorable cultural influences on Korean society. Secondly, there was a growing dissatisfaction amongst the public with the homogeneous nature and the low quality of programmes on the existing over-the-air (terrestrial) television broadcasting even after the start of commercial television broadcasting in 1991. In response to these issues, the State directed its attention to introducing diverse channels in order to provide greater programme choices to select from while preserving the duopoly of the public-commercial broadcasting system. This change in attitude by the State foreshadowed the introduction of cable and satellite television and local commercial television. As a consequence, both cable television and local commercial television launched in 1995, and the satellite television is due to start in 1997.

The supportive evidence for the promotion of diverse channels was addressed in the MOI's analysis of the current broadcasting environment in Korea. That analysis of the situation facing Korean television broadcasting in the 1990s identified a number of key issues requiring attention and resolution. The analysis (Ministry of Information, 1994) includes,

- . lack of international competitiveness,
- . lack of infrastructure (facility, manpower, programming),

- . too much emphasis on regulation,
- . weak market, and
- . lack of long-term policy on broadcasting.

This clearly indicates that the State priorities shifted from protecting the public broadcasting structure to the development of new broadcast media. These issues arose out of a realisation that the new broadcast technologies offered opportunities which could be harnessed and that new participation involved the risk of being subjected to unfavorable and, perhaps, undesirable cultural and economic influences. This has been particularly true since the early 1990s, when the spillover from the Japanese satellite broadcasting has reached to Korean audience, despite Korean Government's complaints against it. Given Korea's traditional hostility to Japan and fear of its influence, the exposure to Japanese programmes has been regarded as a serious threat to the Korean State.

The principal debate in Korea has been about which technology to adopt, cable or satellite broadcasting. The overwhelming view by the State bureaucracy has been to treat satellite television as a more important medium because of its breadth of geographic coverage. Cable television, although it started earlier than the satellite television, is regarded as more limited and therefore more appropriate to local broadcasting. As one official in the MOC says: 'In strict terms, it may not matter if we have cable television or not because it is a local issue. But we must have satellite television because without

it, we cannot compete internationally or regionally (Interview with the Director, Broadcasting Division, MOC, 29/June/1994).'

### 6.3. State Control over Operation and Programming.

The examination of the degree of State control over television broadcasting over time in Korea shows that the State has maintained a rigid and strong control over operation and programming. And the mode of this control has not been significantly changed within the political context until recently.

#### 6.3.1. The Degree of State Control over Operation.

A recent report, based on a survey conducted by the Korean Broadcasting Institute (a research institute under the Ministry of Information), reveals that there is a great deal of dissatisfaction with the current regulatory structure and functions among the broadcasters. The survey's findings show that 78% of the television broadcasters believe the State exerts direct or indirect control on television broadcasting; 60% believe the State is the most influential player in the current broadcasting operation; and, 92% of them believe that current regulations on television broadcasting do not reflect the realities (KBI, 1994). In order to better understand this regulatory environment, it is appropriate to identify the degree of State control over the operation of television broadcasting over time.

Table 6.4. - State control over television operation in Korea since 1961.

Operation Phase	Management		Ownership		
	Personnel affairs	Financial affairs	Foreign ownership	Cross-media ownership	Foreign invest
1961-1972	direct	obliged [B+F+A]	prohibited	allowed	pro- hibited
1973-1979	direct	obliged <B+F+A> (B)	prohibited	allowed	pro- hibited
1980-1987	direct	obliged <B+F+A>	prohibited	prohibited	pro- hibited
1988-	direct	obliged <B+F+A+P> (P)	prohibited	prohibited	*pro- hibited

[ ]: National broadcaster  
 < >: Public broadcaster  
 ( ): Commercial broadcaster

B: Business report  
 F: Financial statement  
 A: Audit  
 P: Programming report

\*: Only exception to this is programme suppliers for cable television.

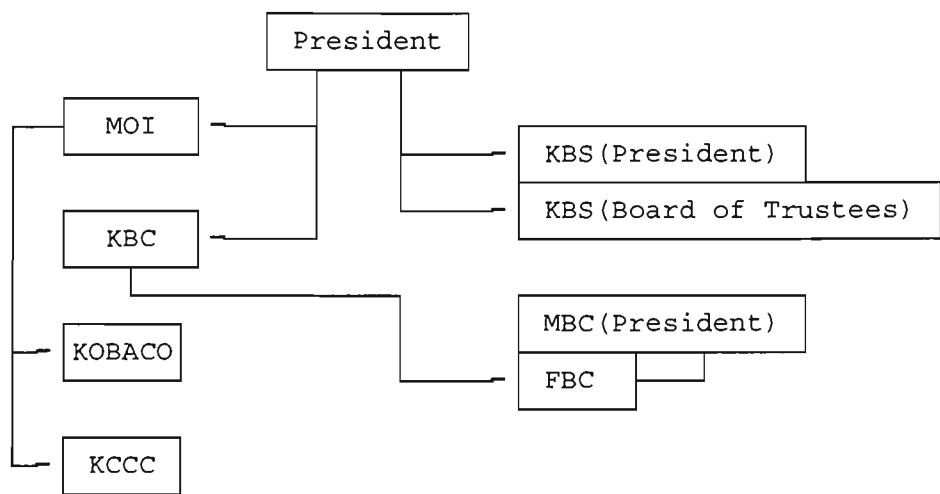
Table 6.4. shows that the degree of State control over the operation over time has been strong. During each phase, the State appears to be the single most important player impacting on television broadcasting. The relationship between the State and television broadcasters until 1979 has been direct, and since 1980 has frequently been direct without the need to be mediated through the regulatory agency, the KBC.

The strong degree of State control over operation has been most visible in the appointment and nomination of the directors of both the regulatory institutions and television broadcasters. As Figure 6.1. further illustrates, the State intervenes virtually in all personnel affairs of both regulators and broadcasters, directly and/or indirectly. In appointing the heads of the various regulatory bodies and television

broadcasters, the President of Korea seeks recommendations from other State institutions, such as the Speaker of the National Assembly and the Supreme Justice.

The creation of a self-regulatory system in the past three decades - initially as a broadcasters' self-regulatory body until 1979, then as an internal self-regulatory body in each television station up until now - has failed to function mainly because its role has been interventionist. All broadcasting stations were obliged to provide regular report on their business, finance, and programming to the MOI and/or KBC. Also, upon request by MOI, they had to submit related materials necessary for confirming the facts.

Figure 6.1. - The current structure and responsibilities for the appointment of directors of the regulatory bodies and television broadcasters in Korea.



Another significant control over the management was the financial restriction imposed on television broadcasters' advertising activities. In 1981, the State established the KOBACO (Korea Broadcasting Advertising Corporation) as a means

of mediating the relationship between the advertisers/advertising agencies and the broadcasters. KOBACO's main functions included the sales of broadcasting time for advertisements, the administration of a public service fund to support cultural and art projects, and the development of broadcasting (KOBACO, 1994). There is no doubt that the creation of KOBACO resulted in great restriction, if not absence, of freedom in advertising activities of broadcasters (Bulman, 1990).

Except for the cases of foreign ownership and investment, State control over ownership before 1979 has been relatively loose, due to the fact that cross-media ownership was permitted and entry was also open to business conglomerates. The control over ownership, however, became stricter with the merger of the television broadcasters under the umbrella of public service broadcasting in 1980.

#### 6.3.2. The Degree of State Control over Programming.

The lack of a regulatory framework in the period 1961-1972 resulted in a relatively higher degree of latitude being allowed to broadcasters in the formulation and production of programmes and the practice of self-regulation. Since 1973, based on the political justifications, the State's control over programming has changed significantly in its degree but has remained virtually unchanged in its mode. It is not difficult to note from Table 6.5. that the mode of State control has been



practiced in a similar fashion for a long time. This has been so because since its inception, television was regarded by the State as a useful means of maintaining its political legitimacy. Apart from the legal enforcement, the typical form of control over programming by the State has been through the guidance system.

Table 6.5. - State control over television programming in Korea since 1961.

	1961-1972	1973-1979	1980-1987	1988-
Censorship	self-regulation (post-broadcast review by KBEC)	direct guidance (pre-broadcast review by KCIA & MOI)	direct guidance (pre-broadcast review by KBC)	indirect request (pre-broadcast review by KBC)
Code of values	enforced	enforced	enforced	enforced
Foreign materials	restricted	restricted	restricted (20%)	restricted (20%)
	Presidential Decree determines the ratio			
Broadcast time	restricted	restricted	restricted	restricted
	Broadcasters should obtain special permission for the extension of broadcast time from MOC & MOI			
Minimum of cultural programs	20%	30%	40%	40%
	Presidential Decree determines minimum amount			
Advertising time	restricted (10%)	restricted (10% till '76 8% from '76)	restricted (8%)	restricted 8%:till '94 10%: '94+
	Presidential Decree determines the time & frequency of the commercial broadcast			
Other restrictions				Obligation of broadcasting independent production programmes

This form of exercise still exists, but in an indirect fashion, as the following comment shows: 'Every January we receive the

broadcasting guidelines for programming from the KBC which requests cooperation. Depending on how you interpret it, it could be a request, requirement, or an obligation. There is no obligation to follow it, however, it is very difficult to neglect it and we try to reflect them in the programme (Interview with Assistant Director, Programme Planning Division, MBC, 20/6/1994).'

This comment summarises the difficulty of dealing with an implicit but unavoidable intervention from the State. It is clear for the television broadcasters who, since the inception of television broadcasting, have experienced the imposition of immediate direct sanctions when they did not accept those requests. The requests by the State still look like orders. This comment also supports the view that the State still exerts a great degree of control over programming, which lies beyond the range of legal provisions and requirements set in the Broadcast Law.

It is also worth noting that the creation of the KBC in 1980, a seemingly independent regulator, did not significantly alter the degree and mode of State control over programming: 'The Broadcast Law has been exercised on a narrow scale with the KBC's prime object being on the monitoring and regulating programme content, rather than promoting the broadcasting industry as a whole (Interview with the Director, Programming, SBS, 21/6/1994).'

This comment can be further explained under the current regulatory structure where the regulator's (KBC's) role is mainly to screen the programmes and then gives permission to go-ahead. What the regulation lacks, however, is an overall programming policy which takes account of the characteristics and desires of each of the different channels (Interview with Executive Director, Broadcasting Policy Centre, KBS, 28/6/1994). This is shown by the fact that regulatory exercise and practice over television broadcasting in Korea have not been paralleled with the development of quality programmes.

State control over operation and programming of cable television as illustrated in the Cable Broadcast Law of 1991, for example, contrasts with that on over-the-air television in its degree and mode. In the case of cable television, the State allows a limited amount of foreign investment both in the area of programme production and supplies. Furthermore, less limited air time, more advertising time, and more foreign programmes are provided. This relatively lenient degree of control over operation and programming of cable television, although partial, could be seen as an indication of the State's recognition of market needs for the new media and pressure from the Western world.

The growing recognition of market needs has also been noted in the existing terrestrial television. Some of the signs of this occurred in late 1994 when the government announced an increase in advertising time on free-to-air (over-the-air) television,

from 8% to 10%. At the same time, the MOI prohibited commercials on KBS1 (*Chung-Ang Daily*, 23/7/94) which, as a public service broadcaster, previously relied for 70% of its financial revenue on commercials.

If the subjective evaluation of the degree of State control over time is placed on the two dimensions (Diagram 6.1.), State control over television broadcasting in Korea has been closer to the strong end, both in the operation and programming.

Diagram 6.1. - Trends of State control over television operation and programming in Korea.

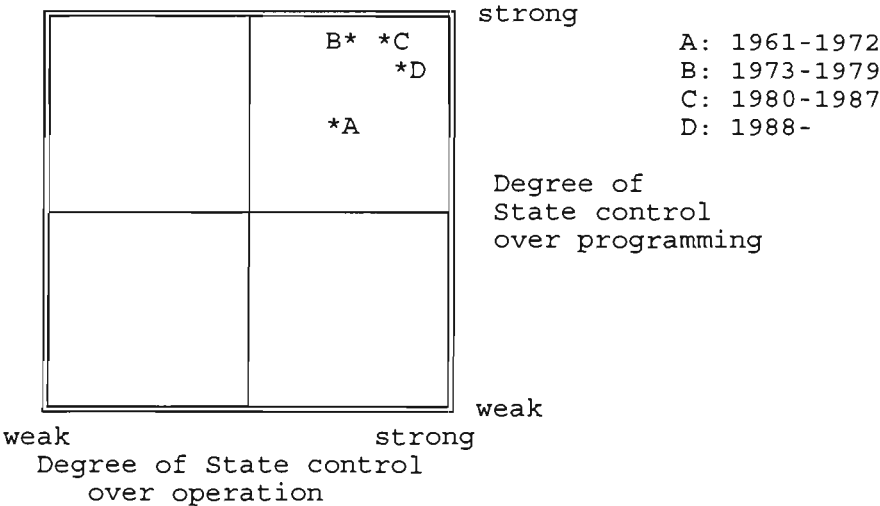


Diagram 6.1. also reveals that the range of the degree of State control over programming is not significantly different from that over operation. One possible explanation for this could be that State control of television broadcasting in Korea has been gradually intensified within the political context under authoritarian governments until 1987. However, the emerging political diversity provided by new governments since then, has not brought any significant deregulation or relaxation. This

means that the State, to a varying degree, has exerted and is continuing to exert control within the established framework of restrictions and guidelines.

Some of the dominant features in television broadcasting in Korea can be seen from the Diagram 6.1.. Firstly, the State has created the loose framework of broadcasting, which maintains an ambiguous situation allowing the State maximum opportunity for control and intervention at will. Secondly, the State political control has remained unchanged for the most part, in spite of the reforms and the extension of television broadcasting structures, including the creation of new bodies.

Also what is interesting is that, the changing pattern of State control over television broadcasting is similar to that of newspapers, with one major exception. When the political system shifted to a more pluralistic one in the late 1980s, a shift from incorporation to cooptation occurred in the case of newspapers (Yoon, 1994). The degree of State control over television broadcasting in the same period, however, did not show any significant change from that of cooptation.

#### 6.4. Conclusion to Chapter Six.

A review of the regulatory history of television broadcasting in Korea reveals that there has been a significant gap between legislative regulation of television broadcasting and regulatory practice exercised by the State bureaucracy. The gap

between the legislative regulation and the State bureaucracy in television broadcasting is expected to be greater when there is no other mediating control structure/mechanism which is open and accessible to the influence of various stakeholders. In Korea, there have been control structures which acted as a link between television broadcasters and the State, first the KBEC, a self-regulatory body, and then KBC, a quasi-government body.

However, as this chapter has revealed, the gap between them in Korea has been significant in that the policies set in law and regulatory practice exercised by the State bureaucracy have not always been consistent or completely compatible. This argument is further evidenced by the fact the government has been the sole player in establishing, framing, and devising television broadcasting regulations. It, therefore, seems to be reasonable to conclude that the control structure/mechanism in Korea has not functioned well enough to reduce the gap, merely suiting the interests of the government.

The Korean experience of State control over television broadcasting provides an illustration of how overt control by traditional measures such as censorship may be avoided and instead be substituted by indirect control consistent with State priorities and interests. That indirect control of television was achieved without legal basis. This in turn created a more significant gap between the legal requirements by the State and the practices that were imposed by television broadcasters.

This can be explained in terms of the changing State interests and priorities over time, on the one hand, and the nature of the evolving regulatory structure, on the other. In relation to the former, a broader reason could be that this practice has been set and justified under the State interests and priorities, such as, national development and security in the 1960s and 1970s, social stability in the 1980s, and international competitiveness in the 1990s. In relation to the latter, in a narrow but practical sense, the main reason for this could be found in the nature of regulatory structure in Korea, under which the relationship between the State and the television broadcasting has not been clearly defined in terms of respective rights and obligations, such as, agreements or a code of conduct stipulating the rights and responsibilities of both parties, as in the case in Western Democratic countries. It is also because other control mechanisms or structures failed to provide an effective means for bridging gaps that developed between the State and television broadcasters, such as in the settlement of misunderstandings, conflicts, disputes, and any other issues.

This clearly indicates that the State in Korea, by not creating a framework for television broadcasting, maintained an ambiguous situation which allowed it maximum opportunity to control and to intervene at will. In this context, television broadcasting remains for the most part under State political control. In this sense, it is proper to say that television broadcasting in Korea has not undergone a revolution, and that

despite a number of its structural changes, its regulatory changes have been more moderate (Heuvel & Dennis, 1993).

Indeed, every new situation presented by new developments in television broadcasting in Korea has been met by creating more of the same regulatory structures, with their usual shortcomings, that is, lack of legislative base, lack of policy framework, lack of coordination between agencies, and lack of clarity of role, functions and inter-relations of agencies in order to form a consistent and functioning whole.

As noted earlier, the creation of new regulatory structures, along with strengthening the centralised power of existing ones, has emerged as a strong theme and a substitute for the pursuit of open review and reform. In the relationship between the State and television broadcasters in Korea, the historic responses have been more concerned with centralised State control than with developing realistic solutions to the challenges posed, firstly, by political and/or social changes, and secondly, by new and emerging broadcast technologies.



**PART FOUR: Comparison of the Role of the State in Television Broadcasting in Hong Kong, Japan, and Korea.**

PART THREE looked at the role of the State in television broadcasting in each country: Hong Kong, Japan, and Korea, and the specific frameworks of: regulatory history, relationship between the State and television broadcasters, and the degree of State control over operation and programming. PART FOUR analyses and compares the distinctiveness of the role of the State in television broadcasting in all three countries.

Next three chapters analyse the exact role of the State in the development of television broadcasting in the three countries as a whole. This involves comparisons of the common features shared by all countries, and the factors which have motivated the State in controlling television broadcasting over time. The differences are discussed with references to the specific conditions which gave rise to the distinctive features of the role of the State in television broadcasting from one country to another. In order to maintain a consistency of comparison, the same major frameworks which were dealt with in each of the three countries in the earlier chapters, will be specifically compared and analysed.

Chapter Seven looks at the historical context in which television broadcasting has emerged and changed in each country, their regulatory traditions and structures. Chapter Eight focuses on the relationship between the State and television broadcasters based on a set of indicators which

determine the degree of closeness between the two. These indicators include the availability of mediating regulator(s), the degree of enforcement of State regulation, and the confluence of, or lack of confluence of, mutual interests. Chapter Nine attempts to conceptualise the State control over television broadcasting by identifying the degree of State intervention in operation and programming, including the direct and indirect mode of the intervention.

## **Chapter Seven - Comparison of the Regulatory History and Structure of Television Broadcasting in Hong Kong, Japan, and Korea.**

The role of the State in television broadcasting in this chapter is examined and compared firstly by looking at the contexts in which the regulatory structure has been shaped and changed in the development of television broadcasting. It then compares the salient features of regulatory structures in the three countries. Some of the common ideological grounds which have influenced the State in framing and regulating television broadcasting in the three countries are also examined and discussed. The discussion provides an overall background which will explain the way in which each State, implicitly or explicitly, justifies the shape and development of regulation of television broadcasting.

### **7.1. Common Cultural, Political, and Ideological Grounds.**

This section identifies the common characteristics of the State of the three countries, together with salient features which distinguish them from other nation-States. As mentioned in the early part of the Chapter Two, the definition of the State in any specific country requires a closer examination together with the various factors which distinguishes each one of them from other countries. Once the nature of the State in each country is identified, its role as a regulator in television broadcasting is expected to be better understood. However, while the forms of the State may vary from one country to

another, it is implicit in the notion of comparison that it will also have some universal features. For this reason, the nature of the Confucian State in this section also is addressed, focusing on the major factors which have influenced the three countries.

Table 7.1. - Common distinctiveness shared by Hong Kong, Japan, and Korea.

	Hong Kong	Japan	Korea
System of Belief	Confucianism		
Western Influence	Britain	U.S.A.	U.S.A.
Economy	Preeminent Economic Powers in the Region		

All three countries, in a broad sense, share common features in the development of modern States since the 1950s (Table 7.1.). Culturally, they share Confucian traditions; politically, they were directly influenced by Western Anglo-American powers in decisive post-war periods; and economically, they all emerged as preeminent economic powers in the region (in the case of Japan, in the world as well), following World War II and the era of the Cold War that followed it.

7.1.1. The Confucian Influence of Modern State.

Hong Kong, Japan, and Korea share a common cultural legacy, which is deeply influenced by Confucianism. Confucianism, either as an ideology or as a model of social system, has greatly influenced stratified patterns of social belonging, whether to a State or to a community, and has particularly

influenced the patterns of precedence and subordination according to age, sex, and family role (Devos, et. al., 1979:214). While Weber (1951) views Confucianism as a conservative and anti-modernising force, Vogel (1991) observes it as a positive force because of its (i) legacy of meritocratic bureaucracies; (ii) emphasis on education; (iii) focus on the group rather than the individual; (iv) stress on self-improvement. However, regardless of different views on the conservatism or progressiveness of Confucianism in national development, there has been little or no disagreement on the fact that Confucianism has been a dominant force in these countries.

In the contemporary context, Confucian traditions have manifested themselves in modern States, particularly in unusual bureaucratic capacity and harmonious business-government relations (Petri, 1993). This open capacity of the Confucian State maximises harmony and consensus in society, ensuring that competition is pursued within an established framework which maintains consistency and continuity with past historical and cultural traditions. In so doing, more emphasis is on rule by virtue, rather than the law (Little & Reed, 1989).

Under the Confucian culture, the State is conceived not only as a mechanism of control but as a form of moral order that can be coercive (Tu, et. al., 1992). However, the formation of the present State in these countries, in its emerging process, was totally independent of the Confucian tradition mainly because

all of the three countries were directly influenced by Western Anglo American and British powers in shaping their modern States. For example, since it was ceded to Britain in 1842, Hong Kong has been a British Crown Colony and will remain so until July 1997. The Japanese State was reshaped after World War II by the Allied Forces led by the United States. And Korea, with the direct aid of the USA, shaped its modern State after World War II, and later reshaped it again after the Korean War in 1953. Therefore, in shaping the modern State in the three countries, the Confucian nature has been overshadowed by and subordinated to military-strategic and geopolitical priorities of external nations.

However, it is important to note that the shape or reshaping of the modern State in the three countries influenced by the Western powers, does not mean the separation from or the discontinuation of the Confucian culture. On the contrary, their Confucian character, to a varying degree, has been maintained not only as an ideology but also in practice. Even in Hong Kong where the British Colonial Government set up a Western style of government (State), Confucian elements were maintained in the public, such as, the practice of familism (Wong, 1989). This was brought about by the fact that the population of Hong Kong is made up predominantly of ethnic Chinese.

Most of the Hong Kong Chinese still adhere to traditional Chinese mores on various aspects of social living; they have adopted many Western folkways but only in a superficial sense. (Wong, 1989:167)

This clearly implies that the Western Protestantism brought by the British Colonial Government had to be tempered so as to be able to accommodate the Confucian elements dominant in the Hong Kong public. As for the depth of Chinese traditional culture, the Hong Kong Government has not sought to impose itself so long as the Chinese were governable. In this way, the State believed it could gain acceptance and assure its preeminence as an instrument of the dominant interests. As a result, the Hong Kong Government has maintained minimal intrusion in various areas, especially in the economy, while influencing local population to understand Western elements - even if it was in a superficial sense to the public - at the same time.

#### 7.1.2. Characteristics of Modern Confucian State.

Confucianism, originating in China, was introduced in Japan and Korea in modified form in their own ways, and given a different interpretation. While the detailed exploration of how it has been modified and applied in each of the countries is beyond the scope of this research, it is, nevertheless, worth examining some of the major features which distinguish the modern Confucian State from other States, for example, Western democratic countries. As this section discusses, the Confucian State is characterised by the centralisation of power, collectivism, and the governance of society based on the manifestation of morality.

The state is involved.. in developing economics and providing political order and social stability.. the state became all-pervasive, if not omnipotent. The state felt that it had the right to interfere in many areas and provide leadership in many ways. .. That is the expectation of the people, under the influence of the Confucian culture, who wanted the state to perform a very important role. (Tu, et. al., 1992:111)

This comment highlights that the key feature of the Confucian State has been the perceived nature of the State as a centre of power. Indeed, the central power has been exerted by; the British Colonial Government in Hong Kong; the Japanese State bureaucracy which survived in the post-World War II period (Eccleston, 1989); and the authoritarian regimes led by military governments until the early 1990s in Korea. However, the nature of the State as a centre of power may be a universal feature which applies not only to the Confucian State but also to other types of States. It is, however, the form of government in the Confucian State, that is, the central government as the locus of power, which distinguishes the Confucian State from other types of States.

The Confucian State has been also characterised by its emphasis on collectivism rather than individualism. In Confucian societies, individualism, as practiced in the West, is not generally accepted as a social value (Tai, 1989). Indeed, although there have been slight differences in the degree of importance attached to collectivism and in the range of its application, every individual in the Confucian societies is measured in relation to others (Harvey, 1994) - to the family, to the company, and the State.



In Japan, for example, individualism has never prospered, and any strong and serious advocacy of liberalism has been virtually non-existent (Morishima, 1982). Each individual, at the same time, maintains congenial relations among individuals within the organisations he/she belongs to. In this process, interpersonal accommodation and mutual adjustment are sought through moral persuasion, and self-seeking pursuits that may jeopardise group cohesion are discouraged (Tai, 1989). Collectivism or group orientation, as opposed to individualism, on the other hand, emphasises and requires a rigid system of organisation which functions according to a hierarchic order.

Another factor which characterises the Confucian State is that more emphasis has been on the observation of morality or moral ethics, than on the law. In Western societies, for example, the power is signalled by the principles, which are imposed in the society by law, and those who break the law are penalised. Therefore, as long as one does not violate any laws, one is relatively free to pursue whatever he/she chooses to do. The Confucian societies, on the other hand, do not place as much emphasis on binding legal codes as the Western societies (Vogel, 1991). Instead, Confucian societies have traditionally been tightly structured with more detailed moral ethics (rules) about the proper behaviour of the individual in the group he/she belongs to.

..a dominant theme in Confucian political ideology is ethics not power. ..the State is seen as a mechanism for exerting social control and establishing and maintaining moral order. (Tu, et. al., 1992:11)

This comment supports an argument that Confucianism prefers to use ethical norms to harmonise human conduct and the society rather than to exert legal enforcement. Norms established by moral ethics are less rigid than laws. This means that moral ethics in the Confucian societies, possess the possibility of wide flexibility in applying its norms to practice, in order to maintain a harmony amongst the different individuals.

In Confucian societies, the way in which moral ethics has been practiced varies from one country to another. In Japan, for example, the loyalty to the law and the State, as well as one's parents and one's work has been the cornerstone of Japanese morality (Harvey, 1994), whereas in Chinese Confucian societies, benevolence, such as filial piety, has been of central importance in performing the morality. Both benevolence and loyalty have been important factors in Korea (Morishima, 1982).

As the remaining sections of this Chapter show, the perceived nature of the State as a centre of power has been apparent in the development of television broadcasting and its regulation in the three countries. The application of other characteristics of Confucian State, that is, collectivism and moral emphasis, to television broadcasting in the three countries is further discussed in the following chapter.

## 7.2. Comparison of Regulatory History in the Development of Television Broadcasting in Hong Kong, Japan, and Korea.

States differ in their structure and in the principles that underlie them; countries differ in the environment in which they exist; and technologies differ in the problems they pose at their various stages of development. (Street, 1992:47)

The introduction and development of television has undergone a different process in each of the three countries (Table 7.2.). Given the diversity and complexity involved in the context in which television broadcasting was introduced and developed in the three countries, it is not easy to single out any one particular contextual feature common to all of them. Nor is it easy to categorise the national distinctions along a common continuum over the same period of time during which television was introduced and developed.

Nevertheless, a closer examination of the regulatory history of television broadcasting in the three countries reveals several contextual similarities and differences, albeit with some variations in degree. This section focuses on two specific examples - the initial context in which the regulation of television was established, and the contexts in which regulatory measures were developed.

### 7.2.1. Comparison of the Context in which Regulation of Television was First Established.

Before examining the regulatory contexts, it is appropriate to look at the context in which television was first introduced in the three countries. With a closer examination of the context in which television was first introduced in each of the three countries, it is possible to observe that it occurred at a time when each of the three nations was not politically and/or socially stable.

Table 7.2. - Development of television broadcasting in Hong Kong, Japan, and Korea.

	1950	1960	1970	1980	1990	1997
H.K.		(TTV) '67	(*<TTV>) '72		(STV) '91	
		(CATV) '57			(CATV) '93	
Japan	<(TTV)> '53				<STV> '89	<(STV)> '91
				** (CATV) '87		
Korea		[TTV] '61	[(TTV)] '64	<(TTV)> '73	<TTV> '80	<(TTV)> '91
					***<(STV)> '97	(CATV) '95

- [     ] National broadcasting

<     > Public broadcasting

(     ) Commercial broadcasting
- TTV: Terrestrial television

STV: Satellite television

CATV: Cable television
- 1) (\*<TTV>) '72, Hong Kong: Although the RTHK (Radio Television, Hong Kong) is a public broadcasting service, it has been using commercial broadcasters' transmitting facilities for delivering the government information and policies within limited time slot.

2) \*\* (CATV) '87, Japan: Urban-type cable television.

3) \*\*\*<(STV)> '97, Korea: Due to start.

As this section shows, the context of the introduction of television and the shape of its regulation is to be best understood as developing in a particular period of threats, real or imagined, at the time when there was a major reality

to rebuild the nation after World War II, and at the time the economy relied on Anglo-Western countries to assist with economic assistance and military defence.

Indeed, in the 1950s and early 1960s, all three countries, to a varying degree, faced both internal and external threats. Apart from the Communist threat that all of them faced in the midst of the Cold War, all three countries needed to rebuild their economies following World War II while maintaining the Western military, political and economic umbrella. In this process, television was seen as part of a nation-building and nation-binding project of the State in each case.

In Korea, television was introduced just after a military coup. In Japan, it was introduced just after the nation was freed from the Allied Occupation Forces, while in Hong Kong, it was introduced in a situation where the polity and society was loosely integrated (Chan J., 1992), caused mainly by the influx of refugees from mainland China. This instability, on the one hand, provided the bases for strengthening the political legitimacy of the State/Government of the day, and on the other, for justifying the State's own definition and structure of television broadcasting.

Television in Hong Kong was introduced as a cable subscription service in 1957 by Overseas Rediffusion (Hong Kong), which was a subsidiary of one of the British Independent Television contractors (Wedell, 1980). The Independent Television service,

financed by advertising revenue, had been created in the UK when the dual system of broadcasting was adopted in 1955.

During the introductory period of television broadcasting, Hong Kong had been experiencing various instabilities. The Colonial Government was embarking upon the development of social services, such as public housing and education, which were programmed to accommodate the vast accumulating number of refugees fleeing from mainland China after the Communist victory in 1949. During the same period, there were United Nations threats of embargo on trade with China (Sung, 1986), and the political sentiments of the pro-KMT (Kuomintang: defeated by the Communist in 1949) people who came to Hong Kong after 1949 turned into political riots in 1956 (Patrikeeff, 1989).

It is, however, worth noting that the introduction of television in Hong Kong was, by no means a response to easing such instabilities caused by refugee crisis, ideological disputes, and economic difficulties. Rather than serving local interests, television was introduced as a commercially-driven colonial service mainly for expatriate British and well-educated Chinese who could understand the English language. In this sense, television in Hong Kong has played less of a role in nation-building and binding in its early days than Japan and Korea.

This sharply contrasts to other former British colonies in Asia and Africa, where the BBC model was introduced either in a form of government broadcaster (agency), as in India, Malaysia, Singapore, and Tanzania, or in a form of public broadcaster (authority), as in Pakistan, Sri Lanka, Nigeria, and Ghana (Katz & Wedell, 1977). In these countries, the broadcasters could play main role in nation-building and binding.

The introduction of television in Japan occurred when economic development began to burgeon, capitalising on the Korean War (1950-1953). The Allied Forces' broad policy of demilitarisation and democratisation in occupied Japan brought the concept of freedom of the press, which forced the existing broadcasting structure to reform. As a consequence, national broadcasting was forced to function mainly as a public service by the Allied Forces, and later by the newly-established Japanese Government. This provided the existing broadcaster, NHK, with a leading role in television broadcasting, although commercial participation was allowed.

..the spirit of the legislation [Broadcast Law] was found upon public service broadcasting but it also implied the idea that the operation of the commercial broadcasting should be left to the free will of operators for the time being and measures necessary should be enforced while observing the growth of such services. (NHK, 1967:165)

Korea saw the introduction of State-managed television in 1961, just after the military coup led by General Park. The new regime's primary agenda was to strengthen the national

integration that had been hampered by the continuous political struggles of the 1950s (Yoon, 1994a). At the same time, in order to justify the legitimacy of the Government, the regime placed the highest priority on economic development. The new regime perceived television as a useful tool to implement and institutionalise a new social and political order (Park, 1985), ultimately aimed at promoting the achievement of its goals.

This clearly demonstrates that the State's principles in television broadcasting in the three countries significantly differ from liberal democratic regimes under which public service broadcasting was developed and promoted in Western Europe, particularly Britain, and from a laissez faire philosophy of broadcasting in the USA.

While the differing principles and perceptions of television broadcasting have been noted in the three countries, it is also worth noting that the introduction of television did not coincide with the establishment of regulatory frameworks for television. In other words, the regulatory framework of television broadcasting was established before or after the introduction of television. This implies that while the context in which television was first introduced has been similar in all three countries, the context in which the regulatory framework of television was established has been different. Furthermore, the difference in the time gap between the introduction of television and establishment of its regulatory framework in each of the three countries shows a dramatic



contrast. For example, the regulatory framework in Hong Kong and Korea was established seven and three years, respectively, after the start of television, whereas the regulatory structure in Japan already existed three years before the start of television. This contrast will be further discussed in the next section.

The social, political, and cultural contexts which shaped the regulatory framework of television broadcasting can account for the differences in perception, priorities, and principles of each State's role in television broadcasting. The experiences and perceptions of local and international political circumstance and priorities were major factors in shaping the structure of television broadcasting and the style of regulation. For example, the style of regulation in Hong Kong was formed in a relatively liberal situation under the British Colonial Government, whereas in Korea, the interests of the military government were paramount. In Japan, it was the Allied Forces that played the key role.

The circumstances which shaped the regulatory framework of television broadcasting in Japan have been changed very significantly over the period since the end of World War II. For example, the Allied Forces had been originally interested in reshaping the status and functions of the existing NHK, which had been operated and controlled by the Government until the end of World War II. However, the American Far East Policy in the face of the intensifying Cold War with the Soviet Union

and China in the late 1940s brought dramatic changes to prompt Japan's early independence. The Allied Forces who had delayed major intervention on fully transforming the national broadcaster (NHK), found it useful to maintain the existing structure in the face of political and military confrontation with Communism. As a consequence, it also brought about changes in the initial regulatory framework of broadcasting by recognising the need for accommodating commercial broadcasting (NHK, 1967).

In Hong Kong, the regulatory framework for terrestrial television was established in 1964 before the start of terrestrial television. In strictly technical terms, Rediffusion's cable service may not fall under broadcasting since no signal is radiated. This means that the context of regulatory framework of television broadcasting in Hong Kong can be explained differently, depending on the definition of television broadcasting. As noted in earlier part of this section, the initial regulatory framework was made in order to control not the existing cable television but terrestrial television. In this sense, the context of the regulatory framework is to be understood in the process of introducing terrestrial television.

In the early 1960s, Hong Kong was faced with a growing population caused by the Anti-Rightist Movement (1957) and the Great Leap Forward (1958-1960) in mainland China, which emphasised mass mobilisation and ideological purity rather than

expertise under Communist Party stimulation (Young, 1989) and resulted in great famine and starvation. In these circumstances, the Colonial Government's intention of introducing a terrestrial (free-to-air) television service (both in Chinese and English) in all over Hong Kong has been a clear indication of response to local population.

This was a stark contrast to the Colonial Government's earlier perception of television, that is, catering mainly to British expatriates in Hong Kong. Indeed, prior to terrestrial television, television came via the expensive, and geographically limiting, medium of cable. The introduction of free-to-air television brought important changes not only in the television broadcasting structure, but also in shaping popular culture, such as popular music and movies, in Hong Kong. More importantly, the introduction of terrestrial television provided a medium for the emergence of a broad lamination of national identity (Patrikeeff, 1989).

#### 7.2.2. Comparison of the Context in which Regulatory Measures were Developed.

The contextual comparison in the introductory process of television broadcasting clearly shows that the initial regulation of television in all three countries has been ideologically- and/or politically-driven. In the developmental process, however, the regulation of television broadcasting has been altered by complex and evolving political and economic factors, and technological developments, whose accommodation

and management required and provided the grounds for new justifications for the regulation.

A more detailed look at the regulation in the developmental process of television broadcasting in the three countries, reveals a dramatic contrast in the level of regulatory changes over time. Hong Kong, for example, saw one major regulatory change in 1987, whereas Korea has undergone several major structural changes in regulation since the 1960s. In contrast to Hong Kong and Korea, the regulatory structure in Japan has remained virtually unchanged throughout the same period.

This invariably raises a fundamental question: despite several attempts, why hasn't there been any major regulatory changes in Japan? It is difficult to pinpoint precise answers to this question due mainly to contextual variations. It is, nevertheless, worth mentioning some of the possible interpretations. The fact that several amendment bills have been repeatedly shelved in the Diet shows that the State did not regard the issues of regulatory changes in television broadcasting as a main priority. This alternatively meant simply that the State preferred to maintain the existing regulatory structure rather than have a new structure. Or that re-regulation was some kind of a threat to the State, and so was suppressed whenever it arose. If, for example, the request of the commercial television broadcasters, that is, having an equal status as NHK, had been accepted, it would have posed a serious challenge to the NHK. In this sense, it is reasonable

to say that the Japanese State has been consciously concerned about maintaining the status quo.

Another reason is ideological. Not being free to shape its own society, the Japanese State might have regarded the change of the regulatory structure of television broadcasting, which was originally shaped and compelled by the Allied Forces, as a denial of the very existence of any social and political structures which have been forced by the Allied Forces. Under the situation where the threats from the Communist countries, namely former USSR and China, were volatile, it would be difficult for the Japanese State to insult or offend its former Allied Forces, that is, the United State.

This apparent stability in the case of Japan is due to the control of television broadcasting being maintained by the circle of a socially and politically influential elite. This is evidenced by the fact that a series of attempts made in 1953, 1959, and 1965, to change the Broadcast Law, were blocked in the Diet (Parliament). In each attempt, the fundamental disagreement between the government and opposition parties has been on how to harmonise the freedom of speech guaranteed in principle by the Constitution and the Broadcast Law with the public nature of broadcasting (NHK, 1967).

Television broadcasting in Korea has suffered from the State's use of broadcasting for political ends, under the ideological umbrella of ensuring that television broadcasting served as an

instrumental tool for emphasising national security and development, and ultimately for maintaining the Government. Indeed, television was seen as a means of defence and an anti-Communist tool, and this has been broadly supported by the harnessing of Confucian cultural features, such as loyalty to the government, in order to justify the strong government control. Without exception, the major regulatory changes of television broadcasting have been made in the context of insecurity and instability, as in 1973 and 1980.

The genuine fears and threats which were intensified by a series of domestic and international incidents also provided the military governments with grounds for justifying the changes of regulatory structure of television broadcasting. For example, the change of regulatory structure in 1973 which imposed a stronger censorship, was made when President Park revised the Constitution in favor of maintaining his presidency. The successive military government led by Chun who took the power in 1980, not only restructured television broadcasting and its regulatory framework, but also laid down a new principle of television under the guise of public service broadcasting.

Undoubtedly, the colonial influence has been dominant throughout the development of television broadcasting in Hong Kong. The best example of this is the creation of English language channels, imposed upon the two commercial television broadcasters (TVB & ATV). Despite the small proportion of the

English-speaking population (less than 5%) and the unpopularity (almost-nil ratings), the fact that the English channels still exist clearly attests to the Colonial Government's intention to maintain its control over television, during its reign.

If the context of shaping the regulatory structure in Hong Kong in the early 1960s was more socially- than politically-driven, the context of major regulatory change of television broadcasting has been clearly politically motivated. This has been particularly true since the 1984 Sino-British Declaration. Realising the popular pressure against the colonial dominance of the political structure and system, the Hong Kong Government, since the 1970s, has installed some moderate reform measures, such as, the increase of the proportion of unofficial members of the Legislative Council in the late 1970s (Cheek-Milby, 1989), the establishment of Regional Council in the New Territories in the middle of 1980s (Lane, 1990).

The measures of decentralising the powers of the Hong Kong Government, however, have enlarged, rather than lessened, the power and role of the Hong Kong State. By creating more political bodies, as mini-centres of influence, interlocked horizontally and vertically within the formal system (Lau & Kuan, 1986), the Hong Kong State hopes it would help keep the Chinese authority from manipulating Hong Kong's internal affairs after 1997.

The political motivation was also evidenced in the establishment of the Broadcasting Authority Ordinance in 1987, which empowered the Broadcasting Authority with a great deal of authority in all matters of broadcasting. This regulatory change came about after the 1984 Sino-British Declaration. The fact that the Broadcasting Authority became a statutory body under its own Ordinance, was a clear sign of the State's long-term concern with the regulation of television broadcasting, especially after 1997, in the hope that the structure would help restrict China's options in regulating television broadcasting in Hong Kong.

#### 7.2.3. Comparison of the Context in the Emergence of New Broadcast Media.

With the achievement of rapid economic growth, all three countries have exhibited a certain affinity to new broadcast media and technologies. The new media technologies in all three countries brought deregulation of television broadcasting in the early 1990s, aiming for the provision of diversity of channels and the promotion of competitiveness in the local economy.

Yet, it is important to note that such aims remain subordinate, to a greater or lesser extent, to the political imperatives. This has been particularly noted in Hong Kong in the middle of 1990s, in the transit process of transferring its sovereignty to China. Recognising the difficulties of regulating new broadcast media under the existing Television Ordinance, for



example, satellite, cable, video-on-demand, and pay television, the Hong Kong Government drafted the Broadcasting Bill in order to incorporate laws covering the different forms of television, in a uniform set of licensing standards and a code of practice for all types of broadcasters. The Bill, however, has been shelved in early 1996 mainly because it could antagonise Beijing ahead of Hong Kong's return to Chinese sovereignty in 1997 (*The Asian Wall Street Journal*, January 24, 1996). From the point of view of China, who has been sensitive toward foreign media influence in its mainland, the deregulation of television broadcasting in Hong Kong is clearly against its wish, because the Bill may ease the restriction on foreign ownership of television broadcasting infrastructure, such as satellite uplink facilities.

Similarly, the Hong Kong Government's protection of the existing monopoly of pay television service provided by the Wharf Cable, after mid-1996 (see Section 4.2.4.), which contradicts its original intention, can be seen as evidence of the Hong Kong Government's political decision of not wanting to issue more licences for fear of upsetting China (*South China Morning Post*, 30/3/1996).

In Korea, the new broadcast medium was (cable) and is going to be (satellite) introduced with the expectation that they will provide channel diversity, protect local people from foreign culture, especially Japanese, and promote economic competitiveness, both locally and internationally. As

illustrated in Section 6.1.5. & 6.1.6., however, the long and hard attempt to achieve those aims, by reregulating the television broadcasting through the proposed New Broadcast Law at the end of 1995, has been bitterly overshadowed by political imperatives.

### 7.3. Comparison of the Regulatory Structure of Television Broadcasting in Hong Kong, Japan, and Korea.

As noted earlier, one of the important factors which distinguishes the structure and framework of the regulation of television broadcasting in each of the three countries from the others has been the availability of basic regulatory frameworks prior to the introduction of television. In Japan, for example, the basic regulatory framework of broadcasting established by the GHQ in 1947, under which the duopoly of public and commercial broadcasting structure replaced the existing State monopoly was adopted in the introduction of television broadcasting and remains virtually unchanged to this day.

In comparison with Japan, television broadcasting in Hong Kong and Korea was introduced with the relative absence of a basic regulatory framework of broadcasting. Since its introduction, television broadcasting in Hong Kong and Korea had been loosely controlled by Government through guidelines on programmes, until the proper forms of regulatory framework, Television Ordinance in Hong Kong (1964), and Broadcast Law in Korea (1963), were developed and put in place. The absence of established regulatory frameworks in the introductory phase of

television broadcasting led to a series of changes and new initiatives aimed at reshaping its regulatory structure to take account of the emerging technologies and social and political circumstances.

The availability of a regulatory framework of broadcasting (governing radio broadcasting) prior to the introduction of television in Japan has been an important factor which has affected and shaped the formulation of the regulatory structure of television broadcasting. In a real sense, television broadcasting was regarded as being radio broadcasting with pictures.

Table 7.3. - Comparison of current regulatory structure of television broadcasting in Hong Kong, Japan, and Korea.

	Hong Kong	Japan	Korea		
State Regulator	RCB	MPT	MOI & MOC		
Other Regulators	BA & *CTEL	No	KBC	KCCC	KOBACO
Members are appointed by	Governor		Presi-dent	MOI	MOI
Status	Statutory body		Physically separate		

\*CTEL: Executive arm of BA.

Table 7.3. shows an interesting contrast in the regulatory structure of television broadcasting. While the Japanese State regulator, MPT, is a sole regulator, the regulatory structure in Korea is widely dispersed, under both two State regulators within the State bureaucracy, and three mediating regulators, each of which has different areas of supervision. Hong Kong is

somewhere in between, where each of the regulators has different functions, but are all placed under the Government. This difference in the regulatory structure, however, does not mean a corresponding difference in the range of regulatory functions.

Despite the structural differences in regulation, the ultimate regulatory power, that is licensing power, in all three countries is centred on the State bureaucratic regulator(s) within the national government (Table 7.4.). This argument is further attested to by the fact that the regulatory involvement of other main government branches, that is, the legislative and judiciary bodies, in television broadcasting has been weak or minimal in all three countries. This is in stark contrast to the regulatory structures in Western countries, where the regulatory power is either dispersed to various actors, such as President, Congress, the FCC, and the Court, as in the USA (Krasnow, et. al., 1990), or spread across a network of regional authorities as in Germany (Kleinstauber & Wilke, 1992), or centred on the mediating regulator, as in the UK and Australia.

The perceived nature of the State as a centre of power in the regulation of television broadcasting in all three countries is further evidenced in their policy-making processes of television broadcasting. In Japan, the policies are discussed and decided within a tripartite structure which includes the Government, the ruling party, and the business representatives,

whereas in Korea, all policies are planned, discussed, and decided by the Government and the President. The opposition, that is, opposition parties and the public, has never been provided with any mechanism(s) to influence the decision.

Table 7.4. - Regulatory functions on television broadcasting in Hong Kong, Japan, and Korea.

	Hong Kong	Japan	Korea
Policy making	RCB	MPT	MOI
Licensing	BA	MPT	MOC & MOI
Supervision	CTEL	MPT	KBC (terrestrial) KCCC (cable) KOBACO (advertising)

The redefinition of regulations was made necessary by a combination of converging factors: the emergence of new technologies and the need for control and coordination; the growing perceptions of the power of television broadcasting in influencing the economic, cultural, and political climate; and the potential of television broadcasting in defending and/or mobilising local industries. While these factors remain largely constant, in all three countries, the new broadcast technologies, such as cable and satellite television, have not significantly altered or broadened the basic structures of television broadcasting and their regulatory frameworks. Indeed, the new broadcast media, satellite television in particular, in all three countries have been placed under the same regulatory framework as the existing terrestrial television broadcasting. In Hong Kong, the principles of laissez faire have also been applied to both satellite and

cable television, whereas the dual structure of public and commercial broadcasting has been maintained for satellite television in Japan and Korea. In Korea, although satellite television in Korea is due to be launched in 1997, the channel allocations announced by the MOI and MOC show the combination of public and commercial participation.

#### 7.4. Conclusion to Chapter Seven.

The comparison of the regulatory history of television broadcasting in the three countries shows that the introduction of television broadcasting and the shape of its regulation were made under different types of Government: the British Colonial Government in Hong Kong, the Occupation Forces in Japan, and a military government in Korea. The structure of television broadcasting in each country has been developed to serve different purposes or ends: accommodation of social interests in Hong Kong, public service in Japan, and a political instrument in Korea. Despite the differences in principles and perceptions of television broadcasting, however, each of the three States has constantly maintained a strict monopoly over the regulation of television.

In so far as the context of the development of the regulation of television broadcasting in general, and the context of the shaping of its regulation in particular, are concerned, each of the three States has had to accommodate the instability and insecurity of the nation, which has been caused by internal and

external threats, on the one hand, and the long-existing Confucian values dominant in the society, on the other. The accommodation, however, has been, to a varying degree, circumscribed to the extent that the conflicting tensions between the two have been justified and have served the State's own goals and priorities.

The common Confucian nature of the State as a centre of power perceived in the three countries can also be illustrated in the power structure of each nation, which implicitly expresses the Weberian definition of power, the ability to get one's way even against opposition (Weber, 1964). This is apparently evidenced in the policy-making process of television broadcasting, in which the power of the opposition has had little or minimal influence in all three countries. Furthermore, each of all three States virtually has not provided mechanisms for public participation in processing and implementing regulatory changes. While there has been an attempt to seek public views or reactions, such as is the case with Hong Kong in relation to broadcast content, the public's input is reactive and not pro-active.

Although the three countries have achieved rapid economic growth and their political and economic circumstances have been changed, the present structures of television broadcasting are not significantly different from those which were in place when television broadcasting was introduced. The degree of instability and insecurity is either weakened in Japan because

its economic success has made it less vulnerable to any major threats, or strengthened in Hong Kong where its future is uncertain after 1997 when the sovereignty and administration of Hong Kong will transfer to China, and in Korea where the national security is directly threatened by North Korea.

Despite the differing degree of instability and insecurity, however, it is critically important to note that the perception and actuality of the State as centre of power in all three countries remain virtually unchanged. This is evident in the fact that the aims of new broadcast technologies, although driven by economic incentives, have been largely subordinate to political imperatives. This has been more true in Hong Kong and Korea, than in Japan, mainly because the latter, as economic power, has been already comfortable and secured in its economy when the new broadcast technologies emerged, and they have been less affected by political incentives. However, in all three countries, including Japan, powerful private television broadcasting sector has not been allowed to evolve.

A small and evolving development which is striking at this time of television broadcasting, especially in the mid 1990s, is the challenge the television poses in its potential for undermining Confucian values and structures among the public at large. The reasons for this may in part lie in the increasing discrepancy between expectations from Government and the nature of what is actually delivered in the form of television broadcasting. The issues of regulatory practice are taken up in the next chapter.



## **Chapter Eight - Comparison of the Relationship between the State and Television Broadcasters in Hong Kong, Japan, and Korea.**

The previous chapter examined the regulatory structure and historical contexts in which the regulatory framework of television broadcasting was shaped and developed in the three countries. In order to better comprehend the State's role in television broadcasting, it is now necessary to examine how the State regulations have been exercised in practice, and how the relationship between the State and television broadcasters has been maintained.

This chapter provides comparisons of the relationship between the State and television broadcasters in the three countries. The relationship is measured by three indicators; the availability of regulators which mediate between the State and television broadcasters; the level of mutual interests between the two; and the degree of constraints imposed upon television broadcasters. From this, it is expected that some of the answers relative to the major question on how those indicators have affected the relationship between the State and television broadcasters are to be provided.

### **8.1. The Availability of Mediating Regulator.**

One of the major arguments in this study has been that the relationship between the State and television broadcasting depends not only on the availability of the mediating

regulator, but also on the functional degree of the performance of the mediating regulator. Each of the three countries has a different form of regulatory structure: no mediating regulator in Japan, a government mediating regulator in Hong Kong, and a seemingly independent mediating regulator in Korea. The absence of a mediating regulator in Japan may make it difficult to draw an appropriate comparison with two other countries that have their own mediating regulators. Nevertheless, the fact that there is no mediating regulator, itself provides an interesting point within the comparison.

A fundamental question raised here is: to what extent does the availability of the mediating regulator affect the relationship between the State and television broadcasters? Although the comparison of the mechanism which mediates the State and television broadcasters in the three countries does not provide direct answers to this question, the comparison shows that the mechanism has been a better way of performing the State's regulation and its related functions. This can be better explained from the current regulatory context of Japan, where the government is considering the establishment of a mediating regulator.

The recent discussions on the need of a mechanism bridging the State and television broadcasters in Japan (see Section 5.3.2.), which was sparked when the news director of TV Asahi was forced to resign after the government claimed his political report during the 1994 election campaign was biased against the

ruling LDP, has been initiated by the State's intention to better control the television programmes. Prior to this, the need of a mediating regulator has not been seriously considered or raised either by the State or the television broadcasters. However, it remains highly questionable whether the Japanese State would establish a mediating regulator, independent from the State. It is because the creation of a mediating regulator means not only a major change of regulatory structures and tradition, which also requires major changes in other related laws, but also the creation of a mechanism which is vulnerable to control by outsiders, either directly or indirectly. Although it is unlikely, the fact that the Japanese State is considering a mediating mechanism implies that the State believes such a mechanism can help better maintain its relationship with television broadcasters (Interview with Researcher, NHK-BCRI, 18/January/1996).

The comparison, however, does not fully support an argument that the availability of a mediating regulator affects the maintenance of the relationship between the State and television broadcasters. This is mainly because the availability of a mediating regulator does not automatically guarantee that the relationship between the State and television broadcasters is closer than where there is no mediating regulator. This is particularly so when the mediating regulator is not independent from the State. Indeed, even the mediating regulators in the Western countries, such as the FCC

in the USA, CRTC in Canada have not been totally independent from the State.

The State in the USA and Canada, appoints the members of its mediating regulator and authorises its budget. Apart from these, the mediating regulators have been also subject to other types of State intervention. For example, the CRTC has been subject to directives from the Federal government, which has ultimate power to set aside the CRTC's decisions regarding licences (Vipond, 1992; Collins, 1990). Similarly, but to a lesser extent, the US Congress exerts its intervention in the FCC in order to limit the FCC's discretion in the decision making process (Head & Sterling, 1990).

To put it another way, the relationship between the State and television broadcasters in the three countries studied has, to a varying degree, remained close, regardless of the availability of the mediating regulator. As evidenced in Hong Kong's case (see Section 4.1.1.), if the mediating regulator is placed under the State's control, the mediating regulator's role and functions are directly associated with the State's interests and priorities. Similarly, the experience of Korea, where the mediating regulator has not been available until 1980, shows that the State can dictate its relationship with television broadcasters, regardless of the availability of the mediating regulator (see Section 6.1.).

Japan's case is an explicit contrast to Hong Kong and Korea. Although there has been no physically identifiable mechanism which mediates between the Japanese State and television broadcasters, the mediating functions have been performed mainly by the sole State regulator, the MPT. Also, the Japanese State has maintained a relatively close relationship with the television broadcasters, without serious challenges from them.

#### 8.2. Shared Interests between the State and Television Broadcasters.

Television in the three countries, like in many other countries and especially in its early days, served as a useful tool for national development and nation-building. As discussed in the previous chapter, the State's principles in the television broadcasting in the three countries, have been significantly different from liberal democratic regimes under which the public service broadcasting was developed and promoted for terrestrial television broadcasting, as in Western Europe, and equally those in which a laissez faire philosophy has maintained, as in the USA. It is, however, difficult to precisely observe the degree of confluence of interests shared by the State and television broadcasters. This is not only because it requires a thorough examination of all aspects of State's interests and their reflection on the television broadcasters, but also because there is a need to identify whether the interests are shared, if any, in a genuine and open mode.

8.2.1. Shared Interests Before the New Broadcast Technology.

Despite the differences in the principles and difficulties, however, the State in each of the three countries has maintained a close relationship with the television broadcasters, to the extent that its interests have not been challenged by the television broadcasters. Conversely, this means that the television broadcasters in each of the three countries has maintained a stance, which has not contradicted the State's interests. The broadest interests of the State in television broadcasting in the three countries appear to remain same until the introduction of new media (Table 8.1.).

Table 8.1. - Major interests of the State and television  
broadcasters before the new broadcast media.

	State	TV Broadcasters
H.K.	Promotion of laissez faire	Profit-making
Japan	Maintain the status quo	Profit-making (commercial) Public service (public)
Korea	Political use	Profit-making (commercial) Profit-making (public)

Although there have been several major changes in regulation and structure of television broadcasting in Korea, the main interests of the State have been to utilise the medium for the political purposes, as a means of justifying the legitimacy of the military governments on the one hand, and maintaining political power, on the other, as shown in the 1960s, 1970s, and 1980s. Television broadcasters have been forced to share these interests, under direct or indirect threats. It would be

proper to say that, in those periods, the interests of the television broadcasters, either public or commercial, have been uniform: profit-making. This has been particularly so since 1980, when television broadcasting was restructured under the guise of public broadcasting. And, as a consequence, the State provided the two public television broadcasters (KBS and MBC) a way to virtually monopolise their income from advertising. As long as the television broadcasters satisfied the State's policies and interests, they have been able to achieve that goal. This was further evidenced when the opening up of the television broadcasting to a commercial player in 1991 was challenged by the existing television broadcasters, all public, for fear of losing their profits.

Sharply in contrast to Korea, the experience in Japan and Hong Kong shows that the State's interests have been, to a certain extent, shared by television broadcasters. Under the duopoly of public/commercial television broadcasting, the Japanese State's interest has been to maintain the dual elements of the structure as complementary, rather than competitive, to each other. Despite the small gap between the State and commercial broadcasters, who have claimed an equal status to NHK, the State's interest has been matched with that of both NHK and the commercial broadcasters. Similarly, in Hong Kong, where there are no serious political competitors, the Colonial Government has been able to maintain its wishes and interests, that is, in promoting the open and free market economy. This has been shared by television broadcasters.

### 8.2.2. Shared Interests After the New Broadcast Technology.

The deregulation of television broadcasting, in the process of the convergence of telecommunication and broadcasting technologies, has been witnessed in many parts of the world, especially the West European countries in the later half of the 1980s. Such deregulation also has been realised in the three countries under study, and it brought, to a varying degree, some changes in the relationship between the State and television broadcasters.

One of the State's major concerns in the emergence of new broadcast media, from the late 1980s to the early 1990s, in the three countries has been how to place these new media into an existing television broadcasting structure. Although no particular pattern of the State's relationship with television broadcasters in the emergence of new media has been observed, the comparison of the national priorities in each of the three countries shows that each nation has placed a somewhat different priority on forming its television infrastructure. This has been clearly visible in Hong Kong, where the role of the State has been more to balance the existing and new broadcasters rather than to protect one specific interest, as evidenced in the licensing conditions of the cable television provider, Wharf Cable, in 1993 (see Section 4.2.4.), and in the fact that the existing terrestrial television broadcasters (TVB and ATV) were allowed to engage in overseas satellite broadcasting.



In Japan and Korea, on the other hand, more emphasis has been placed on the promotion of new channels - satellite television in Japan and cable television in Korea. This has been done mainly by limiting the terrestrial television broadcasters' participation in the new media. In Korea, terrestrial television broadcasters' participation in cable television (whether operation, production, or transmitting) is prohibited, and their participation in the satellite television, although it is likely, is not decided yet, as of early 1996. In Japan, terrestrial television broadcasters, not allowed to have their own satellite television services (either BS or CS), have had to reluctantly join the consortium with JSB, a commercial satellite television operation, with more than 200 other companies. An indirect but appropriate observation which can be made from this is that, in Korea and Japan, the State's interests in the new media has not been matched with those of television broadcasters (commercial ones, in case of Japan), whereas the reverse has been true in Hong Kong.

The difference in the State's interests in television broadcasting in the three countries also has been reflected in different responses to the new media. The Japanese State, for example, has been responsible, rather than responsive to, for the new media; as seen in its involvement in the development of satellite broadcasting with NHK since the mid 1970s, and its initiatives in the test of urban-type cable television in the 1980s. The State's stance of favoring NHK in satellite

television created tensions with the commercial television broadcasters.

Unlike Japan, the State in Korea, has been responsive to, rather than responsible for, technological development. The introduction of cable television in Korea, for example, was an immediate response to the overspill of satellite broadcasting from Japan. While being consciously aware that the Japanese programmes would be a potential threat to national culture and the domestic market, the Korean Government believed the introduction of diverse cable channels would weaken the viewers' desire to turn to Japanese programmes.

The comparison of the degree of shared interests between the State and television broadcasters in this section has been limited to the existing free-to-air television broadcasters. This is mainly because it is a little too early to properly compare the State's interests in the new television broadcasting environment, especially in Korea, where the satellite television is yet to be launched, and those of more recent arrivals. However, it is obvious that, in all three countries, the deregulation has been prompted by the growing interaction of national policies, which became embodied in international as well as domestic forces. This is also reflected in the State's broadcasting policy which emphasises the promotion of the growth of all forms of old (free-to-air) and new (satellite and cable) television.

### 8.3. Degree of Constraints Imposed upon Television Broadcasters in Hong Kong, Japan and Korea.

The degree of closeness of the relationship between the State and television broadcasters in this section is examined and analysed on the basis of legal, moral, and structural constraints. Strictly speaking, these constraints are not mutually exclusive in television broadcasting, because the legal constraints quite often have moral and structural contents. For example, the law relative to television programmes and programming, prescribed either in general or in detail, outlines programme obligations, based on moral principles. In this sense, each of the constraints reinforce each other in the practice of maintaining the relationship between the State and television broadcasters.

As this section reveals, however, it is the different degree of constraints which decides the relationship between the State and television broadcasters (Table 8.2.). In Hong Kong, legal constraints have been more strongly and broadly applied in its range and depth, than moral and structural constraints. In Japan and Korea, in contrast to Hong Kong, both moral and structural constraints have been, in many cases, more applied in practice, and have quite often done so outside the boundaries of the legal constraints. Although the terms, 'strong' and 'weak', refer to density (as against severity of sanction) and to modes of constraint (see Section 3.3.3.), Table 8.2. shows a clear contrast between Hong Kong, and Japan and Korea together.

Table 8.2. - Degree of constraints on television broadcasting in Hong Kong, Japan, and Korea.

	Constraints		
	Legal	Moral	Structural
Hong Kong	Strong	Weak	Weak
Japan	Weak	Strong	Strong
Korea	Medium	Strong	Strong

### 8.3.1. The Comparison of Legal Constraints in Television Broadcasting in Hong Kong, Japan, and Korea.

In all three countries, regulatory practice and legal ideology, to a varying degree, have not been separated against each other. As this section reveals, this has been more true in Japan and Korea where the Confucian influence has been visible, than in Hong Kong where the legal system is based on British laws.

The comparison of the legal constraints on television broadcasting in the three countries shows significant variations in the density of regulation prescribed in the law (Table 8.3.). The regulatory practice regarding television broadcasting in Hong Kong has been based mainly on the prescription of the laws, whereas in Japan and Korea, although the regulations of television are not fully expressed in written words in specific terms, the same practice has been exercised, to a lesser extent, in a lenient mode of legal constraints.

Table 8.3. - Major areas of legal constraints on television broadcasting in Hong Kong, Japan, and Korea.

Hong Kong	Japan	Korea
Licensing condition	Programmes	Operation
Ownership restriction	NHK & Uni. of Air	KBC
Technical conditions	Private Broadcaster	Obligation
Programmes	Facilities	Infringement
Other controls	Program Centre	

Sources: Television Ordinance (Chapter 52) Hong Kong, 1992;  
Broadcast Law in Japan, 1995;  
Broadcast Law in Korea, 1991.

The difference in the legal constraints in the three countries is further noted in the different range of imposition of penalties (Table 8.4.). In Hong Kong, the Television Ordinance specifies the rules about licensing, ownership, royalties, and programmes in detail, together with the specific penalties imposed on television broadcasters who fail to meet the rules. Penalty provisions are entailed in virtually all matters of television broadcasting.

In Japan, however, the range of areas where penalties are imposed is significantly narrower than Hong Kong. The penalties in the major areas of television broadcasting, such as licensing and programming, are almost absent. The main penalty provisions in the Broadcast Law in Japan, cover the areas of violation which are in the main associated either with receiving or demanding 'the bribe (Art.54)', or with technical matters on paid television, such as agreement on the reception and transmission of signals, or installation of operating facilities (Art.56). The main emphasis of penalty provisions in Korea is on the obligation of programmes, ownership, and business matters. The range of penalty provision in Korea is

somewhere between those of Japan and Hong Kong - broader than in Japan, but narrower than in Hong Kong.

Table 8.4. - The areas of penalty provisions for television broadcasting imposed by the law.

Hong Kong	Violation of any conditions of the licence. Violation of any provision of TV Ordinance and other regulations made by the Governor. Violation of any Code of Practice. Violation of any direction or order issued by the BA.
Japan	Reception, demand, or obtain of 'bribe'. (NHK only) Violation of any obligation required. (NHK and University of Air only) Infringement of personal rights on broadcasting. Breach of agreement on reception, installation, and distribution for paid broadcasting. Failure to present business-related materials.
Korea	Interference in operation & programming. Violation of rules on ownership and cross-media ownership. Failure to meet KBC's deliberative rules. Establish branch office without MOI's approval. Overseas broadcast without MOI's approval. Failure to submit business report, monthly report, and the result of deliberated & decided matters. Failure to meet the ratio of foreign programmes.

Sources: Television Ordinance (Section 37), Chapter 52, 1992;  
Broadcast Law in Japan (Article 54-59), 1995;  
Broadcast Law in Korea (Article 43-45), 1991.

The different level of the density of regulation of television broadcasting in the three countries can also be explained in the different degree of importance attached to the law. The Colonial Government of Hong Kong enforced a system, under which Hong Kong as a whole has been run on an institutional and functional basis in which everything is prescribed by legislation. The legal structure in Hong Kong is made on the basis of the classical colonial structure, under which a set of institutions can operate only when they possess legitimacy (Harris, 1988). This is not surprising when we consider that

in Hong Kong, where the Western (British) system was introduced in every aspect of society, the codified law has been crucial to the functioning of its society (Tai, 1989). Undoubtedly, the same principle has been applied to television broadcasting. Both the Television Ordinance and Broadcasting Authority Ordinance regulate virtually all matters of television broadcasting.

In a marked contrast to Hong Kong, in Japan and Korea, where the society is more based on hierarchy and interdependent relationships, legal constraints on television broadcasting have been lenient, and its regulatory system has been less transparent. One of the reasons for this can be explained in the different style of State's management, that is, emphasising operational efficiency. Indeed, there has been a deliberate sense that strong and omnipotent bureaucratic power (legal constraints) has not necessarily been the best instruments for the execution of its purposes where operational efficiency has been a major concern (Bingman, 1989). This means that the State in Japan and Korea maintained certain amount of flexibility in legal constraint by leaving some of obligations to television broadcasters.

Specific examination of the way in which intervention has been exerted in Japan and Korea is reserved until next chapter. However, it is appropriate, at this point, to stress that the fact that the legal constraints over television broadcasting are less densely prescribed in Japan and Korea does not mean

that the legal constraints do not possess any significance. What has been different is the degree of density of the legal constraints. The description of legal constraints of television broadcasting in Japan and Korea have been vague, leaving room for the State to intervene at will. This suggests that it is not just density, but 'black letter' clarity of law. The vagueness of regulation, of course, is not a fundamental characteristic unique to the two countries, but a universal feature of regulation, even in Western countries (Browne, 1989; Hoffmann-Riem, 1992). However, unlike in Western countries, the vagueness of regulation in Japan and Korea has special Confucian characteristics. Set in abstract terms, the legal constraints in the two countries prescribe minimal rules, which, in turn, places the State in a flexible position to exert its influence in the forms of moral or structural constraints.

#### 8.3.2. The Comparison of Moral Constraints in Television Broadcasting in Hong Kong, Japan, and Korea.

As in other kinds of law, moral principles are contained in the laws related to television broadcasting. The basis for moral constraints in the three countries is outlined in the legal constraints over programmes and programming (Table 8.5.).

A striking similarity is that, while expressed in different words, all three countries emphasise the observation of 'morality' in television programmes. The basis of moral



constraints prescribed in the law are further specified in the form of programme standards.

Table 8.5. - Basis for moral constraints in television broadcasting in Hong Kong, Japan, and Korea.

Hong Kong	Programmes should not be injurious to community well-being or morality.
Japan	Programmes shall not disturb public security, good morals, and manners.
Korea	Programmes shall not infringe on public morality or social ethics.

Sources: Hong Kong - Television Code of Practice on Programme Standards (Section 4), 1993c, BA.  
Japan - Broadcast Law in Japan (Article 3), 1995.  
Korea - Broadcast Law in Korea (Article 4), 1991.

All three countries have some similarities in the range of moral elements reflected in the programme standards (Table 8.6.). However, it is important to note that there is a significant difference in the ways in which the moral constraints are created, maintained, and perceived in each of the three countries.

In Hong Kong, for example, the programme standards are legally prescribed by the State regulator, which has ultimate enforcing power on penalising any breaches of the programme standards. Based on the general programme guidelines set out in the Broadcast Law, the television broadcasters in Japan and Korea have their own, individual or collective, self-regulatory code of practice regarding programme standards in more specific terms. In Japan, as for the commercial television broadcasters, the programme standards are voluntarily established as a collective practice by the NABJ, and the NHK has its own code

of practice. In Korea, the programme standards are initially established within the rules of mediating regulators, as a means of performing its deliberative function over programme contents. Then, each of the Korean television broadcasters reemphasises the standards in its own code of practice in a greater detail.

Table 8.6. - The range of television programme standards in Hong Kong, Japan, and Korea.

Hong Kong	Japan	*Korea
Language	Respect for human rights	Democracy and human rights
Sex & nudity	Laws & politics	Respect for basic rights
Violence	Children & young	Moral & social ethics
Children program	Family and society	National culture
Family viewing	Education & culture	Civil spirits and family
Films for TV	News	Public impartiality
News	Religion	Law
Current affairs & documentary	Expression	Language
Contests	Violence	Ideology & religion
Sponsorship	Crime	Violence & sex
	Sex	Children
	Audience participation	International promotion
	Commercials	Broadcast time
		Imitation

\* Korea: Overall programme standards. It has separate sections on the regulations of news, cultural, entertainment and advertising.

Sources: Hong Kong - Television Code of Practice on Programme Standards (Section 4), 1993c, BA.

Japan - Broadcasting Standards, 1993b, NABJ.

Korea - Regulations on Programme Deliberation, 1991, KBC.

The comparison of the past and existing practice of constraints over the moral obligation of television broadcasters in the three countries does not show any significant variation. In Hong Kong, the moral constraints on television broadcasting were created and maintained within the boundaries of legal constraints. Thus, they have been perceived by the television

broadcasters as enforceable rules as legal constraints. In this regard, the application of moral constraints over television broadcasting in Hong Kong has not been significantly different from that of legal constraints. In Japan, the moral constraints were collectively created by the commercial television broadcasters themselves, which require all television broadcasters to voluntarily observe the constraints. In Korea, the moral constraints were established by the State before 1980, and since then by mediating regulators. At any period over time, however, each of the Korean television broadcasters has been forced to evolve its own code of practice in order to meet the State's expectation.

The comparison of moral constraints in the three countries also shows that moral obligation can also constrain the behaviour of television broadcasters within a different range of moral boundaries. This is particularly true in Japan and Korea, where individuals are bound by the same moral code, and remain in the same boundary line. In this sense, the morality in the two countries is a practice of observing the rules which are collectively shared by others. This principle, naturally, applies to television broadcasters themselves, that is, their individual behaviour or attitudes.

The example of the difference in the boundaries of moral behaviour is well shown in the recent controversy on the behaviour of television broadcaster in Korea, the head of a television network. In April 1996, the president of the MBC,

one of the public television broadcasters in Korea, was criticised in public by its own labor union for his past behaviour of having a secret relationship with a young widow. Although this issue was raised in the midst of a long-standing conflict between the MBC and its labor union (*Media Today*, 3/4/1996), it clearly shows that when moral constraints are broken, even if they are amongst the many not included in the legal constraints, the issue is regarded as a behavior or conduct outside moral boundaries. In Korean society, there is little tolerance of public impropriety or immorality. As a consequence, the president of the MBC was forced to resign. This example clearly shows an interesting contrast to the notion of morality in Western societies, where morality is perceived as an individual practice rather than collective. The immorality labelled in Korea may be nothing more than an individual's private business in Western societies.

In Japan, the moral behaviour of television broadcasters has been constrained in association with social and political issues. For instance, The NHK's President had to resign in 1975, after it was made public that he had paid a social visit to Mr. Tanaka, the Prime Minister, who was then found to have accepted bribes from the Lockheed Corporation (Tracey, 1985a). Similarly, another NHK President was forced to resign in the early 1990s, when his conduct, playing golf when he should have been at the BS-3 satellite launch in the USA, was not acceptable.

The constraints of moral obligation over television broadcasting have been also practiced as a collective application. The compelling evidence which demonstrates the collective practice of moral constraints can be found in the Japanese tradition of maintaining silence about certain issues, which are widely known as taboo areas of reporting. This practice of moral obligation amongst the media, including television broadcasters, is rooted in the media's self-censored attitude towards certain topics: the coverage of the imperial family; and 'burakumin', an ethnic minority group in Japan, whose social status is low, but regarded as untouchables (Hadfield, 1991). This shows that the practice of moral constraints in Japan has been closely related to the way in which they see their role in society. This culture of self-censorship, in which there is a constant concern about the social responsibility of television broadcasters and other media, also leads them to hide shocking or unpleasant news, particularly about powerful institutions and corporations (Sherman, 1994).

#### 8.3.3. The Comparison of Structural Constraints in Television Broadcasting in Hong Kong, Japan, and Korea.

Structural constraints are those which have been generated by the State's indirect or direct involvement in the finance, ownership, and personnel affairs of television broadcasters. As in the practice of the moral constraints, the comparison of the structural constraints in the countries shows a significant

difference in its degree. In Hong Kong, television broadcasters, except the RTHK, which is owned and operated by the government, have been relatively free from the State in their structural relationship with the State. Financially, they have been all self-supporting relying mainly on advertising, and the State has had no say in their ownership (except the provision of the proportion of foreign ownership) and their personnel affairs.

The experience in Japan and Korea, however, shows a marked contrast to that in Hong Kong. Similar to the practice of moral constraints, structural constraints in the two countries have been imposed either implicitly or explicitly, without overt challenge from the television broadcasters. NHK in Japan and KBS in Korea, for example, both labelled as public service television networks, are semi-government corporations in that, regardless of its formal mode of ownership (KBS, in large portion, owned by the State, and NHK, a separate entity from the State), the president of each corporation and its board members are appointed by the head of the State. In this sense, public television is an instrument of the State due to both financial and operational conditions and obligations. In the case of NHK, its annual budget and any increase of viewer's licence fee are to be approved by the Japanese State (Diet). These structural constraints have invariably placed the NHK in a vulnerable position in maintaining its relationship with the State.

However, the structural constraints in Japan and Korea impose their restrictions not only on the public service broadcasters, but also on the commercial television broadcasters. This has been particularly visible in personnel affairs, that is, in the appointment to top positions in the television broadcast organisations. However, the way in which this structural constraint has been exercised in Japan and Korea shows an interesting contrast. In Korea, for example, the appointment of presidents to television broadcast organisations needs direct or indirect approval of the State (see Figure 6.1.), but, at least, the State's involvement in this matter is grounded, albeit indirectly, in legal justification. In Japan, however, the State's involvement in the appointment of senior positions, including the president, in the television broadcast organisation(s) has been exercised without any justification nor overt challenges. A possible answer to this can be found in the Japanese way of maintaining organisational connections, which is rendered cohesively by old school (university) and other personal ties among the industry elites (Beer, 1984).

Another type of common structural features in the three countries can be found in the structural form of disseminating government information. This structure constrains all media, including television broadcasting. In all three countries, there are no laws such as the US Freedom of Information Act or similar laws in Western Europe and Australia (although there exists the Code on Access to Information in Hong Kong, the content is restricted). This has invariably limited the

television broadcasters', and other media's, access to government information. In Japan and Korea, this has been done in a form of a 'press club', which is encouraged by the government and placed in the major government organisations and institutions. Similarly, the Government Information Service in Hong Kong has been responsible for producing and distributing information to all media.

The press clubs in Japan and Korea are similar to those in other countries, for example, the National Press Club in the USA, the National Press Gallery in Australia, and the Lobby in the UK, in that they are the key mechanisms through which political information is disseminated to the public. What distinguishes the press clubs in Japan and Korea from their counterparts in other countries are their functional characteristics which bind journalists to the informal rules and customs within each of the press clubs (Feldman, 1993b; Yoon, 1994a).

The rules and customs discourage individual reporting, that is, any individual initiatives in reporting. Instead, they encourage members to cooperate with and share news with each other within the club to which they belong, that is, group reporting. Any violation of such rules and customs have resulted in punishment or ostracism. Suffice it to mention two examples. One is when the NHK broadcast an exclusive interview with Prime Minister, Sato Eisaku, in the early 1970s, and as a result, it was suspended from all club activities for several



weeks (Huffman, 1977). The other example is when the TBS, a commercial television broadcaster, aired coverage of the Northern Islands Territories (the ownership of which Japan disputes with Russia) in 1991, defying the informal ban by Japan's Ministry of Foreign Affairs. Consequently, the reporters were banned from the ministry's press club (Roy, 1991).

The press clubs shape the nature of the relationship between the information source (the State) and journalists (broadcast and newspaper journalists), affect the contents of the information provided to journalists, and even affect the role and orientations of journalists (Feldman, 1993a:69).

If the structural constraints indirectly bind television broadcasters, generated by the State's involvement in their finance, ownership, or personnel affairs, the press clubs in Japan and Korea, and GIS in Hong Kong, have been direct structural channels transmitting information from the lofty realm of the State to the public in a form that the State finds congenial (Taketoshi, 1989). While the press clubs are mechanisms in which both the State and television broadcasters can establish mutually beneficial relationships with each other (Nester, 1989), such mechanisms have been also criticised by Western scholars who claimed that they affected not only the content - uniformity in the contents of reporting - but also their role as propaganda organs for the State authorities.

#### 8.4. Conclusion to Chapter Eight.

The comparison of the constraints upon the television broadcasting and broadcasters in the three countries shows that there is a significant difference in the degree of legal, moral and structural constraints. The maintenance of the relationship in Hong Kong has been more explicitly expressed and directly exercised than in Japan and Korea, where moral and structural constraints, though practiced in less direct mode, have been perceived as more important factors in determining the relationship between the two.

Drawn from the different level of constraints exercised in the three countries, a similar observation can be made on the television broadcasters' different perceptions of the sanctions, actual or potential, arising from the failure of practicing the constraints. Hong Kong's case clearly shows that the relationship between the two, namely, the television broadcasters' perceptions of the sanctions on the one hand, and the failure to apply the constraints on the other, has been transparent, although it may appear democratic. The relationship, however, has been enforced mainly on the basis of the legal constraints, which are all prescribed in the law. On the other hand, in Japan and Korea, both moral and structural constraints, although they are not as apparent as legal constraints, have been maintained by the television broadcasters' self-imposed reflection of meeting the State's expectations.

The comparison of the relationship between the State and television broadcasters in the three countries sheds light not only on the regulatory cultures of television broadcasting in each nation, but also on the different ways in which the relationship has been maintained in the modern Confucian State like Japan and Korea, as against a colonial State like Hong Kong. Despite the differences in the degree of constraints practiced, however, the relationship between the State and television broadcasters in all three countries has been close, at least on the surface. However, it is to be stressed that the type of the closeness between the two has not been uniform in the three countries. In Hong Kong, the regulatory practice of television broadcasting has been exercised mainly within the densely prescribed boundary of legal constraints, which allows limited autonomy for the television broadcasters. Thus, the closeness of relationship between the State and television broadcasters in Hong Kong has been enforced and restrictive, rather than closed and secret, but still out in the open.

Japan's case shows that the relationship between the State and television broadcasters has been maintained with the absence of the mediating regulator. The relationship, however, has been neither completely enforced, as in China and the former USSR, nor widely open, as in the USA. Rather, the closeness of the relationship between the State and television broadcasters in Japan has been a mixture of open and closed one, which has been maintained under the minimum legal constraints, on the one hand, and the State's expectation from the television

broadcasters' voluntary practice of moral and structural constraints, on the other.

This clearly indicates that television broadcasting in Japan and, to a certain extent, in Korea has been less substantially based in legal constraints than in practices that have been exercised within the boundaries of moral and structural constraints. These practices, to a considerable extent, supports the argument that the major characteristics of the Confucian State of Japan and Korea (see Section 7.1.2.), that is, emphasis on morality and collectivism, have been reflected in maintaining the State's close relationship with television broadcasters.

In Japan and Korea, the notion of freedom of the press as a tool of democratic self-government, although it is guaranteed under their constitutions, does not have as deep historical roots as in Western European and Anglo-American thought. In Confucian tradition, both moral and structural constraints have been accommodated, directly or indirectly, by the television broadcasters in order to maintain their close relationship with the State. This accommodated relationship between the State and television broadcasters shows an interesting contrast to the Western, especially the American, tradition of an adversary relationship between the State and the media (Dennis & Merrill, 1991), in which the media play a watchdog role and keep the State under surveillance.

This chapter provides an overall comparison of the regulatory practice in which the relationship between the State and television broadcasters has been maintained in the three countries. In order to examine how this overall comparison of regulatory practice, which reveals the different types of the close relationship between the two, are supportive in understanding the State's role in television broadcasting in the three countries, the following chapter examines and compares the level and mode of the State's regulatory performance in further detail.

## Chapter Nine - Comparison of the State's Control over Television Operation and Programming in Hong Kong, Japan, and Korea.

Whereas the previous chapter compared how the overall relationship between the State and television broadcasters has been maintained and affected, this chapter looks at the operational practice of State regulation - that is, how the State's control over television broadcasting has been exerted in practice in the three countries.

In order to conceptualise and better compare the operational practice of the State regulation over television broadcasting in the three countries, this chapter focuses on the State's control over operation and programming. It also identifies any salient features in the mode of the State's intervention in the operation and programming.

### 9.1. The Comparison of the Degree of State Control over Operation in Hong Kong, Japan, and Korea.

Comparison of the State's control over television operation shows significant variations across the three countries (Table 9.1.). In Hong Kong, the State's control over television operation, especially ownership, has been somewhat lenient, while that in Japan and Korea has been strict. Contrasts are also noted in the control over management. In Japan and Korea, the State has exerted control over personnel affairs via direct or indirect intervention, whereas in Hong Kong this has been almost absent. As far as the State's control over financial

affairs is concerned, television broadcasters in all three countries, except the commercial television broadcasters in Japan, have been subject to a range of obligations.

Table 9.1. - State control over television operation in Hong Kong, Japan, and Korea.

	Management		Ownership		
	Personnel affairs	Financial affairs	Foreign ownership	Cross-media ownership	Foreign invest
H.K.	None	Obliged B,F,A	Allowed	Allowed	Allowed
Japan	Indirect	Obliged * B,F,A	Restrict -ed	Banned	(Banned) <Allowed> [Banned]
Korea	Direct	Obliged B,F,A	Banned	#Banned	(Banned) +<Allowed> [Banned]

Japan \* B,F,A: Applies to NHK only, commercial broadcasters are to provide materials related to their business, when required by the MPT.

Korea #Banned: Although it is likely that the government will allow newspaper companies to participate in satellite television broadcasting, it has not been finalised as of June 1996.

Korea +<Allowed>: Applies to programme suppliers only.

( ): Terrestrial television      B: Business report  
 < >: Cable television            F: Financial statement  
 [ ]: Satellite television        A: Audit

9.1.1. The State’s Control over Management.

In all three countries, the State’s control over television broadcasting has been mainly based on the established framework of control over terrestrial television broadcasting. This has been partly because the State in all three countries has not fully established the legal basis for the new broadcast media, and partly because State regulation has not been able to keep pace with the development of new broadcast technology. This has been most notable in Korea, where the licences for satellite

television broadcasting, which is due to start in July 1996 (for trial broadcasting), and August 1997 (for major broadcasting), had not been decided as of June 1996. Similarly, in Hong Kong, the lack of clear definition and guidelines about pay television caused tensions amongst the conflicting interests, especially Hong Kong Telecom, Wharf Cable, and STAR-TV.

Variations also exist in the applicational range of control over personnel and financial affairs. In Japan, the State's control over personnel affairs of television broadcasters has been uniformly exerted regardless of the type of television broadcasting, that is, public or commercial. As evidenced in the previous chapter, the Korean State directly or indirectly appoints the presidents of the public television networks.

On the other hand, the State's control over financial affairs of television broadcasters, except in Korea, has been exerted at the State's discretion. In Hong Kong, the State's control over financial affairs of newcomers has not been consistent with that of existing television broadcasters. For example, the imposition of royalty obligations upon television broadcasters has not been uniformly applied to all of them. While the free-to-air television broadcasters, ATV and TVB, have been obliged to pay royalties levied on their advertising revenues, the newcomers, STAR-TV and Wharf Cable, have been exempt from the royalty obligation.



Unlike the two free-to-air television broadcasters, STAR-TV's licence is not an exclusive one and it requires that STAR-TV's services not be primarily targeting Hong Kong. Therefore, STAR-TV is not charged in the same way as the two over-the-air television broadcasters. However, although STAR-TV is still required to pay a service origination fee in lieu of royalty, its average annual fee, which is about HK\$6 million dollars (Personal correspondence with Corporate Relations Executive, STAR-TV, 13/6/1996), is far less than the amount of royalties paid by the two over-the-air television broadcasters. Similarly, Wharf Cable, a pay television service operator, has been exempt from the royalty obligation because it does not carry any advertising, as required in regulation, and there has been no equivalent levy applied on subscription income. This clearly shows that the Hong Kong Government's control over financial affairs has been in favor of Wharf Cable. It can be also seen as Hong Kong Government's principal policy decision to favor subscription delivery: respecting people's right to pay to avoid commercials.

Unlike in Hong Kong and Korea, where all television broadcasters are obliged to provide materials about finance-related affairs, such as financial statements and business reports, the Japanese State's control over financial affairs has been exerted only upon the public broadcaster, NHK, which requires the State's approval for its annual budget and the level of the viewers' licence fee. In contrast, the State's

control over financial affairs of commercial television broadcasting has been mainly left to self-regulation.

Table 9.2. - Comparison of number of channels and revenue modes in TV infrastructure in Hong Kong, Japan, and Korea. (as of March 1996)

		Number of channels	Mode of funding
Hong Kong			
Terrestrial		4 (private)	Ad.
Cable		13 (private)	S.F.
Satellite		7 (private/regional)	Ad. + S.F.
Japan			
Terrestrial		2 (public) * 1-6 (private)	L.F. Ad.
Cable		** (private)	Ad. + S.F.
Satellite	BS	2 (public) 1 (commercial)	L.F. S.F. + Ad.
	CS	11 (private)	Ad. + S.F.
Korea			
Terrestrial		4 (public) 5 (private/local)	Ad. + L.F. Ad.
Cable		27 (private)	Ad. + S.F.
Satellite		8 ***	****

Ad.: Advertising, L.F.: Viewers' Licence Fee,  
S.F.: Subscription Fee.

\*: The number of commercial channels in Japan varies with prefecture. As of 1995, the number of channels available are as follows (MPT, 1995);

5-6 channels: 20 prefectures

3-4 channels: 24 prefectures

1-2 channels: 3 prefectures

\*\* : The Number of cable channels in Japan varies, depending on the area in which it operates (in Tokyo, for example, cable companies can have up to 35 channels).

\*\*\*: The Number of satellite channels in Korea is expected to be 8, but has not been finalised yet, as of June 1996.

\*\*\*\*: The mode of funding for satellite television in Korea has not been decided yet, as of June 1996.

Another major area of controlling financial affairs can be found in the modes of funding for television broadcasting. In

each of the three countries, a different mode of funding has been adopted and developed (Table 9.2.). In Japan, public television broadcasting has relied solely on the viewers' licence fee, whereas commercial television broadcasting has relied on advertising and/or subscription fees. In Korea, public television broadcasting has been allowed to broadcast advertising while it has collected the viewers' licence fee, at the same time. Although the Korean State prohibited advertising on the KBS1 from the end of 1994, the mode of funding for other public television broadcasters, namely KBS2 and MBC, remains unchanged. In Hong Kong, however, the State adopted different mode of funding for the different type of television broadcasting; local advertising for the free-to-air television broadcasting, regional advertising for the satellite television, and a subscription fee for the cable television.

Therefore, as far as the distribution of financial sources is concerned, it can be argued that the Hong Kong Government's stance has been to balance the interests of all service providers, rather than favoring a specific service. With respect to the control over advertising, it is also worth noting the difference in the State's control over the transnational advertising agencies in the three countries. Hong Kong saw the internationalisation of the advertising industry earlier than any other Asian markets, mainly due to its colonial history and the Colonial Government's free and open market policy. Therefore, the presence of the transnational

advertising agencies and advertisers has been notable from the early days of television broadcasting.

However, in Japan and Korea, where the State has protected the domestic market for a long time, the presence of the transnational advertising agencies has been minimal until recently. Indeed, in Korea, the transnational advertising agencies have been allowed in only since the early 1990s, when 100% of foreign equity share was allowed. Prior to this, their operation was totally banned until 1987, and since then gradually relaxed; 49% of foreign equity was allowed from 1987, and 99% after 1990 (Ko-Kim & Frith, 1993).

In Japan, the local advertising agencies have been continuously dominant in the advertising market which has been mature and self-sufficient. This can be, in a broader sense, explained from the nature of Japanese capitalism which has enabled Japan to set its own terms for corresponding to Western influence and to assert itself as a powerful competitor in world markets (Sinclair, 1987). Yet, on an advertising-specific sense, the local advertising agencies, led mainly by the Dentsu corporation, have been protected from foreign influence. This has been largely due to the influential role of Dentsu. While being directly responsible for one-third of all advertising on Japanese television, and handling a quarter of all advertising budgets in Japan, Dentsu virtually monopolises the scheduling of the sponsors during the prime-time hours, decides how

companies must advertise and where, and applies pressure on the media (Wolferen, 1989).

The low presence of the transnational advertising agencies in Japan and Korea shows a striking contrast to other Asian countries - except for the People's Republic of China - where transnational advertising agencies, mainly either the US- or UK-based (Ogilvy & Mather, McCann-Erickson, Bates, J Walter Thompson, DDB Needham, Lintas, Saatch & Saatchi), have been predominant in the markets (Table 9.3.). It is worth stressing that the difference in the presence of transnational advertising agencies in Japan has been mainly due to cultural and market factors, whereas that in Korea has been largely due to State policies which protected its local industry for a long time.

Table 9.3.- Top Five Advertising Agencies in Selected Asian Countries. (As of November 1994)

Hong Kong	Japan	Korea
J. Walter Thompson	Dentsu	Cheil Communication
Bates	Hakuhodo	LG Ad.
DDB Needham	Daiko	Daenong
McCann-Erickson	Yokyu	Diamond Advertising
Leo Burnett	Asahitsu Shinsha	Korad Ogilvy & Mather
Singapore	Taiwan	India
Batey Ads.	Ogilvy & Mather	Hindustan Thompson
Ogilvy & Mather	United Advertising	Lintas
Saatchi & Saatchi	J Walter Thompson	Mudra
J Walter Thompson	McCann-Erickson	Ogilvy & Mather
DDB Needham	Hwa-Wei & Grey	Ulka Advertising
China	Malaysia	Thailand
Shanghai Ads.	Bates	Lintas
S.A. Zhuanghuang	Ogilvy & Mather	Ogilvy & Mather
Xinshiji Ads.	McCann-Erickson	J Walter Thompson
China Nat'l United	Dentsu, Y & R.	McCann-Erickson
China Int'l Ads.	Lintas	Far East Ads.

Source: A & M, April 21 1995.

Another mode of the State's control over advertising can be noted in Korea, where the State is directly involved in the sale of television advertising on behalf of the television broadcasters. This mode clearly distinguishes Korea from Hong Kong and Japan. In Hong Kong and Japan, like in many Western countries, the private advertising agencies or the advertisers directly buy advertising time and spots from the television broadcasters. In a marked contrast to Hong Kong and Japan, the mediating role between the advertisers/advertising agencies and television broadcasters in Korea has been performed by the State-owned KOBACO, which controls the sales of television advertising time and spots.

#### 9.1.2. The State's Control over Ownership.

The State's control over ownership has been most lenient in Hong Kong, where television broadcasting has been operated on the basis of a free and open market. In terms of ownership of commercial television broadcasters, Japan has developed a television broadcasting system that is decentralised, imposing its responsibility on a local basis. This has prevented the Japanese commercial television broadcasters from forming a nation-wide network. In Korea, this has been just the opposite. During the periods of its existence, before 1980 and after 1991, commercial television broadcasting has been centralised, with the networks covering major areas. Until 1995, when the decentralisation of television broadcasting was initiated by the start of local-based commercial television broadcasting in

selected areas, television broadcasting in Korea had been more responsive to the national rather than local audiences.

Despite the differences in the principles of the ownership of television broadcasting, the State's control over ownership in Japan and Korea shows a marked similarity, in that the ownership of terrestrial television has been strongly restricted, while foreign ownership and investment in cable television have been allowed. The relaxation of foreign ownership restrictions on cable television in the two countries can be considered attributable largely to the State's attempt to promote the local industry, where the supply of programmes for cable television has been insufficient, as in Korea, and where cable television has been regarded as less popular medium, attracting little attention from the local television broadcasters, as in Japan.

#### 9.2. The Comparison of the Degree of State Control over Programming in Hong Kong, Japan, and Korea.

The overall comparison of the State control over programming in the three countries shows a clear contrast in its degree. Table 9.4. shows that television programming in Korea has been strongly controlled virtually in all areas of programming, whereas the level of control over programming in Japan has been weak and minimal. Somewhere in between, closer to Korea, is Hong Kong.

Table 9.4. - State control over programming in Hong Kong, Japan, and Korea.

	Hong Kong	Japan	Korea
Censorship	Pre-broadcast review	Self-regulation	Pre-broadcast review
Code of values	Enforced	Self-standard	Enforced
Foreign materials	No restriction	No restriction	Restricted
Broadcast time	Restricted	No restriction	Restricted
Minimum of cultural programmes	No restriction	Loosely guided	Restricted
Advertising time	Restricted	Guided by NABJ	Restricted

#### 9.2.1. Censorship.

There is a significant difference in the mode of censorship amongst the three countries. In Japan, self-censorship has been an ongoing practice mainly left to television broadcasters, whereas in Hong Kong and Korea, the State has enforced a strict regime of censorship in the form of pre-broadcast review.

It is interesting to discuss how the different modes of censorship in the three countries has been associated and justified within the boundaries of the legal basis which governs the freedom of programming (Table 9.5.). In Hong Kong, for example, no specifications for guaranteeing the freedom of television programming or operation are provided for in the law. On the other hand, the freedom of television programming is guaranteed in Japan, and that of programming and operation is guaranteed in Korea, albeit on the surface.



It is, however, not difficult to note that the guarantee of freedom of programming has not been heeded in the actual practice of State regulation. The most supportive evidence of this can be found in the indirect mode of State control over television broadcasting in Japan and Korea. A closer look at Table 9.5. shows that, in Japan and Korea, while the freedom of programming is guaranteed, the law also sets aside a room for the State to exert its intervention on exceptional conditions, provided they are grounded in the law. Although this implies that the State may exert its intervention over programming on legal grounds, the actual practice of State intervention has been just the opposite.

Table 9.5. - Basis of freedom of television operation and programming in Hong Kong, Japan, and Korea.

Hong Kong:	None
Japan:	Broadcast program shall never be interfered with or regulated by any person, excepting the case where he does so upon the powers provided for by law. (Art. 3)
Korea:	No person shall regulate or interfere with the drawing up or making of a broadcasting program or operation of a broadcasting station without complying with the conditions as prescribed by this Act or other laws (Art. 3)

Sources: Broadcast Law in Japan (Article 3), 1995;  
Broadcast Law in Korea (Article 3), 1991.

This has been done in the mode of 'administrative guidance', which is a typical form of practice in maintaining links with all types of industries, including television broadcasting. In many cases, administrative guidance has been more effective although it does not carry any legal sanctions (Shiono, 1984). This has been possible mainly because the relationship between

the State and television broadcasters in Japan and Korea has been perceived as close by the two, albeit some threats are implied. Due to this perceived relationship, the State in Japan and Korea has been able to practice its policy measures more by informal administrative guidance than by formal execution of regulatory authority.

There is a significant difference in the gap between the legal basis and the regulatory practice of programming. The gap between the two seems to be small in Hong Kong, where the censorship has been imposed without any legal grounds regarding the freedom of programming. Similarly, in Japan, self-censorship has been practiced based on the legal protection of freedom of programming. In this sense, the legal basis of the freedom of television programming in Japan has, symbolically and to some extent practically, limited the State's direct control over television programming. In contrast to Hong Kong and Japan, the gap between the legal basis and the regulatory practice in television programming has been most remarkable in Korea, where the regulatory practice has been quite contradictory to the legal basis which guarantees the independence of programming. This clearly supports the argument that the legal basis which guarantees television programming, regardless of its existence, becomes irrelevant in actual practice of controlling the programming.

### 9.2.2. Enforced Code of Values of Programme Standards.

Table 9.6. shows that there is a difference in the specific requirements of the programme standards. While the programme standards in Japan emphasise the impartiality and objectivity of the programmes, those in Hong Kong mainly highlight the respect for the individuality and the law, together with common sense and care for children. The programme standards in Korea, however, appear to be less specific, mainly stressing democratic order and public morality. Programme standards in Hong Kong and Korea are further specified, and the television broadcasters' compliance of those standards are monitored and checked by the regulators.

As discussed in the previous chapter, the programme standards in Hong Kong and Korea are further detailed in the form of specific requirements, and, on the basis of these requirements, the day-to-day programming of television broadcasting is controlled by the regulators. In Japan, however, there is no external organ that checks whether individual programmes are conforming to the programme standards, and the law does not provide any penalties against violations of these provisions since it is designed to achieve regulation of broadcast programmes through the television broadcasters themselves. This also applies to NHK's programming. Except for overseas broadcasting which is subject to the MPT's direct order, the Japanese State does not have any direct intervening power on the programmes of the NHK's domestic television broadcasting.

Table 9.6. - Television programme standards in Hong Kong, Japan, and Korea.

Hong Kong	<ul style="list-style-type: none"> <li>a. Ordinary good taste and common sense</li> <li>b. Respect for the individual opinion of the public</li> <li>c. Proper regard for the special needs of children</li> <li>d. Respect for the law and social institutions.</li> </ul>
Japan	<ul style="list-style-type: none"> <li>a. Shall not disturb public security and good morals and manners</li> <li>b. Shall be politically impartial</li> <li>c. Shall broadcast news without distorting facts</li> <li>d. As regards controversial issues, shall clarify the point of issue from as many angles as possible.</li> </ul>
Korea	<ul style="list-style-type: none"> <li>a. Respect the dignity and value of human beings and the democratic fundamental order</li> <li>b. Contribute to a democratic formation of public opinion on public matters by means of data collection... perform its public function by converging harmoniously various opinions of all levels of society</li> <li>c. Not infringe on the honor or right of others or public morality or social ethics.</li> </ul>

Sources: TV Code of Practice on Programme Standards (Section 3), 1993c, BA;  
Broadcast Law in Japan (Article 3), 1995;  
Broadcast Law in Korea (Article 4), 1991.

### 9.2.3. Broadcast Materials and Content.

The control over broadcast materials and content, which are directly related to the operational practice of the television broadcasters, has been most strongly exerted in Korea, where presidential decree sets all major decisions in the programme materials: the ratio of foreign materials, the minimum amount of cultural programmes, the time and frequency of advertising, and the ratio of independent production.

Table 9.7. clearly shows the difference in the ratio of cultural and entertainment programmes. Entertainment programmes occupy the largest proportion in Hong Kong, where there is no imposition on the minimum to be shown of cultural programmes.

In Japan, the Broadcast Law provides overall guidelines in compiling the programmes, that is, maintaining harmony among the different types of programmes (Art.3.2.2). In Korea, the minimum amount of each type of programme is imposed: news -10%, cultural - 40%, and entertainment - 20% (Art.29). The ratios can be altered by presidential decree, as in 1980, when the new military government increased the amount of cultural programmes to 40% from 30%.

Table 9.7. - Ratio of programme classification on terrestrial television in Hong Kong, Japan, and Korea.

	*News	**Culture	Entertain -ment	Advertis -ing
Hong Kong				
ATV (Home)	22.6%	9.0%	66.1%	2.3%
TVB (Jade)	14.4%	15.6%	69.4%	0.6%
Japan				
NHK (GTV)	40.0%	38.9%	21.1%	
#Commercial	20.7%	37.6%	39.4%	2.3%
Korea##				
KBS 1TV	39.0%	49.0%	12.0%	
2TV	13.7%	45.6%	40.7%	
MBC	20.7%	40.2%	39.1%	
SBS	12.0%	41.4%	46.6%	

\*News: News, current affairs, and information programmes.  
 \*\*Culture: Cultural and educational programmes.  
 #Commercial: Five Tokyo-based commercial stations.  
 Korea##: All stations (except KBS 1TV) carry advertising, but the table does not include the ratio of advertising.

Sources: Broadcasting Authority Report, 1995, BA;  
 Japan NAB Handbook, 1995, NABJ;  
 NHK in Focus, 1995d;  
 KBC Annual Report, 1995.

Apart from the differing regulatory traditions, the difference in the ratio of cultural and entertainment programmes in the three countries can also be explained in the maintenance and protection of the traditional values. In Japan and Korea, where the Confucian tradition emphasises education and moral behaviour, the State has been operating an education channel, notably the University of Air in Japan, and Education Television in Korea. Despite the existence of a separate educational channel, the State in the two countries has imposed, directly or indirectly, the obligation for traditional values to be reflected in the programming on other television channels.

Table 9.8. shows that the percentage of foreign programmes which appeared on television has been relatively low in all three countries. It is, however, interesting to note that the low presence of foreign programmes in all three countries has not been due to the State's control over foreign programmes. On the contrary, the regulation governing foreign content allows more (20% of the total programming) than the actual percentage shown in the table in Korea, while no limitation at all on foreign content has been imposed in Hong Kong and Japan. This shows an interesting contrast to Western countries such as Australia and Canada, where the dominance of American programmes on their television has been a serious concern and, as a result, local programme quotas are enforced in order to have both the economic function of protecting domestic

industries and the social function of promoting national cultural values.

Table 9.8. - Sources of programmes on terrestrial television in Hong Kong, Japan, and Korea.

	Station-produced	Independent production	Foreign imports	Government-produced
<b>Hong Kong</b>				
ATV (Home)	60.2%	19.8%	17.3%	2.7%
TVB (Jade)	63.3%	17.2%	15.3%	4.2%
<b>Japan</b>				
NHK (GTV)	71.9%	23.5%	4.6%	
#Commercial	18.4%	75.1%	7.4%	
<b>Korea</b>				
KBS		15.4% (5.5)		
MBC	72.1%	15.9% (8.6)	12.0%	
SBS	70.9%	15.9% (7.7)	13.2%	

#Commercial: Five Tokyo-based commercial stations.

( ): Percentage of affiliate independent production.

Sources: Broadcasting Authority, 1995;  
NHK Annual Yearbook, 1995b;  
ATP, Television Production Union in Japan, 1991;  
KBC Annual Report, 1995.

While amongst the foreign programmes broadcast, the American programmes have been dominant in all three countries, it is worth noting that a certain degree of State control is also exerted in the selection of foreign programmes. In various regions, cultural affinity and geographical proximity have been the major factors in selecting programmes from foreign countries. For example, American television programmes have been dominant in Western countries, and programmes such as telenovelas from Brazil and other neighbouring countries in the Latin American region (de Melo, 1994; Antola & Rogers, 1984), while Hong Kong and Japanese programmes are dominant in some of the Asian countries.

Korea serves as the best example of an exception to this trend. In Korea, neither cultural affinity nor geographical proximity has been a decisive factor affecting the selection of foreign programmes. The historical relationship between Korea and the nation of closest cultural affinity, Japan, has prevented both countries from importing television programmes from each other. In fact, little or no programming from any of Korea's neighbouring countries - North Korea, China, Japan, Hong Kong, Taiwan, and former USSR - have been shown on Korean television. From this example, it is important to stress that cultural affinity and geographical proximity can be subordinate to other factors that are believed to be more important in the State's judgement.

While there have been some variations in the control over foreign programmes, the State's control over the supply of free-to-air television programmes has been lenient in all three countries. This lenience has also resulted with some national variations in the supply of television programmes. A closer look at Table 9.8. shows that, with regard to television broadcasters in Hong Kong and Korea, and the NHK in Japan, the largest part of the television programmes broadcast have been self-produced, whereas independently produced programmes have taken the largest part in the case of commercial television broadcasters in Japan.

One of the immediate explanations for this difference can be found in the different range of television broadcasting



covered. The self-produced programmes can be expected to be common either when each of the television broadcasters directly covers the whole nation, as in Hong Kong, or when each of the television broadcasters covers the whole nation through its own local networks, as in Japan (NHK) and Korea. In such a situation, where television broadcasters have more financial viability by targeting the broader audience and attracting more advertising, as in Hong Kong and Korea, the programmes are more likely to be produced in-house, rather than from outside. Similarly, more programmes are expected to be produced in-house, when television broadcaster, although its financial revenue does not come from the advertising at all, is secured in its finance mainly from the viewer's licence fee, like the NHK in Japan.

As experienced in Korea over time, however, the relative freedom given to television broadcasters in the amount of in-house production, has often resulted in the homogeneity of programming. This led to an imposition of a specified minimum amount of programmes to be made by the independent producers in the early 1990s. Like in other major areas of control over programming, the presidential decree sets the amount of minimum independent production. This is another example which shows that the Korean State can exercise its control at will.

Quite in contrast to Hong Kong and Korea, commercial television broadcasters in Japan, who are prohibited from shaping formal nationwide networks and are locally oriented, have to fill

their schedules with programmes from various sources. Due to the high cost involved in producing quality programmes and limited finance from local advertising sales in the region they belong to, however, it is more economical for the locally-oriented television broadcasters to obtain programmes from other (bigger) television stations or the independent production companies. Indeed, this is well evidenced in the fact that except for a small number of commercial stations located in the large cities, such as Tokyo and Osaka, the majority of the commercial television stations in Japan produce less than 20% of their own programmes (MPT, 1995a).

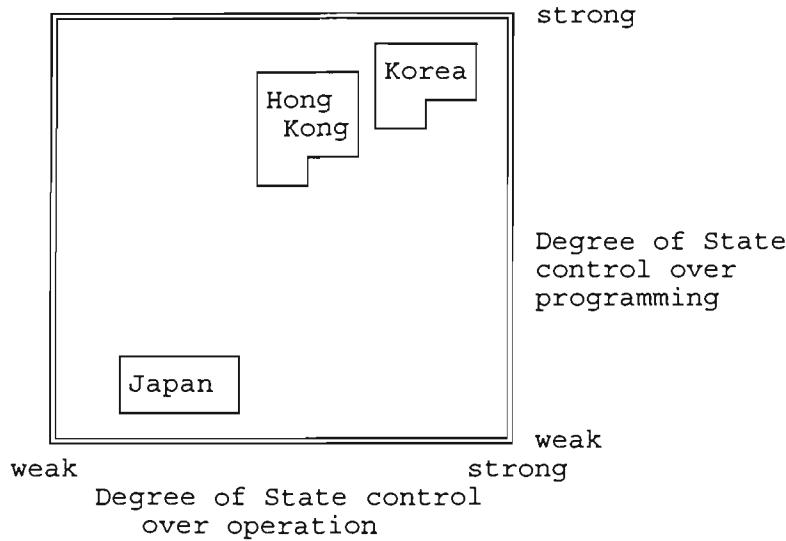
### 9.3. Conclusion to Chapter Nine.

The comparison of the State's control over television operation and programming in the three countries studied, reveals that the mode and degree of the State's control over television broadcasting has been significantly different in all three countries. The operational practice of television regulation on the operation and programming in the three countries provides the supportive evidence for the arguments made in the previous chapter. The different types of close relationship between the State and television broadcasters, as demonstrated in the previous chapter, appear to have created the different degree of State control over operation and programming in the three countries.

In Hong Kong and Korea, for example, where the relationship between the State and television broadcasters has been enforced, the State's control over television operation and programming has been exerted through more restrictions being imposed on them, whereas in Japan, where the relationship between the two has been less enforced and limitedly open, the State's control over operation and programming has been rather lenient, with fewer restrictions in the range of imposition.

The conceptualisation of the degree of State control over operation and programming shows a marked contrast across the three countries. Diagram 9.1. illustrates that the degree of State control over operation and programming in all three countries has been placed closer to the extreme end; Japan towards the weak end, Korea towards the strong end, and Hong Kong tilting more towards the strong end.

Diagram 9.1. - Degree of State control over television operation and programming in Hong Kong, Japan, and Korea.



This regulatory performance in the television operation and programming, made on the basis of subjective evaluation, illustrates that the overall degree of State control over television broadcasting in all three countries has not been significantly altered over time, except for some minor changes which were brought with the new broadcast media (see Diagram 4.1., 5.1., and 6.1.). Indeed, despite a number of structural changes in television broadcasting in Korea, the State has not changed the established framework of restrictions and guidelines in operation and programming. In Hong Kong and Japan, where the structure of television broadcasting has been rather static, the degree of State control over operation and programming virtually remains unchanged. This, to a considerable extent, supports the view that the State in all three countries has exerted control over operation and programming within a structured set of limitations.

Another observation which can be made from diagram 9.1. is that the arrival of new broadcast media in each of the three countries has not significantly changed the degree of the State's control over operation and programming, from that which it had exerted over the existing free-to-air television broadcasting. The State in each of the three countries has been experiencing difficulty in placing the new broadcast media within its television infrastructure. This may be partly due to the absence of a specific set of models for the new media which could be referred to or adopted, and partly due to the

different regulatory traditions under which the State intends to place the new media.

In this regard, it is also worth noting that the implicit factors behind the differing priorities in placing new media within the various television structures could be found in the different degree of State control over television operation and programming. In Hong Kong, where there is no restriction on cross-media ownership and loose foreign ownership is applied, the new media were introduced relatively easily. At the same time, this was possible due to the freedom in programming, although limited, which was given to the television broadcasters, under which both STAR-TV and Wharf Cable could secure a substantial amount of programming from foreign suppliers. By placing strict cross-media and foreign ownership restrictions upon the television broadcasters and by imposing programme regulations on the cable television participants, the Korean State restricted the new media.

It is, at this point, worth discussing whether the State's control over public television broadcasting has been different from that over commercial television broadcasting, in the areas of operation and programming. As witnessed in the West European countries in the 1980s, public television, to a varying degree, has little relationship to citizens as a public, but instead sees that public as a passive audience (Hoynes, 1994). This has been mainly caused by the increasing difficulties in maintaining its operation in the emergence of new broadcast

technologies, and the quality of the programmes. As a result, public television in many Western European countries shifted to meet and accommodate strong challenges from the commercial pressures. This has been done in a form of deregulation or reregulation of public service television.

Although it was introduced by the Allied Forces after World War II, the notion of public television broadcasting in Japan has been deeply rooted in the process of democratising the nation, and the Japanese State has regarded NHK as a leading broadcaster. As a result, more control has been exerted over NHK, especially on its management of financial and personnel affairs. Unlike in Japan, public television in Korea was introduced by the new military government in 1980, by merging then existing television broadcasters. Therefore, the creation of public television in Korea was nurtured neither from the needs and interests of the public, nor from a full and open discussions about it. Even when commercial television coexisted with national television (KBS) prior to 1980, and with public television (KBS and MBC) after 1991, the State control over operation and programming has been uniformly exerted over television broadcasting as a whole, regardless of its public or commercial nature, rather than differentiating it.

## PART FIVE: CONCLUSION.

### Chapter Ten - Conclusion.

This chapter concludes by highlighting the major issues emerging from the findings from the study. This is followed by discussions on the future role of the State in television broadcasting both at national and regional level. Finally, some of the possible directions for future research are suggested.

#### 10.1. Main Findings of the Present Study.

Television has been regulated since its origins because the electromagnetic spectrum was deemed to be a scarce commodity. However, the advent of new broadcast technologies which have provided many alternative ways of transmission, forces or has forced the State to rethink its traditional role as a technological controller. The broadest rationale for deregulation, partial or major, has been that certain aspects of regulation are now outmoded.

..deregulations coincided with an ever more active role for the governments and state agencies in creating what they believed to be the best climate ... What was happening was not the end of state control... but rather a change in its forms, a change that can best be understood as one from control within a closed system to control within an open one. (Mulgan, 1991:137)

Regulation may be external, where a television broadcasting service is largely offered by private broadcasters, as in the USA, or internal where the State or the government corporation is the dominant provider, as in the former USSR and China. However, in countries where the commercial and government (or State) television broadcasting coexist, the degree and mode of regulation has been more varied. The findings from this study help understand how different types and modes of State control over television broadcasting have developed in countries where there is a similarity in culture, citizenship, and language, namely Hong Kong, Japan, and Korea.

Earlier studies on the media in selected countries in the Asian region have taken a rather static view on the role of the State in the region. Indeed, totalitarian regimes, military governments, and strong censorship have been the major preoccupations of this static view. While the intention of this study was neither to challenge nor to support this view, the research demonstrates that the regulatory principle in all three countries, to a varying degree, has been static until recently. This external view of State control has also been applied and maintained within the country. Although this study provides some of the evidences for the regulatory shift from the closed to open mode, the degree and mode of State control, however, have been exerted in such a way as to maintain the basic regulatory framework, under which the State has played a central role.



Despite the common technological and economic issues surrounding the television broadcasting sector across the world, the particularities of television broadcasting and its regulatory practice inevitably have to be seen on a country-by-country basis. This is because regulation is influenced by various political, social, economic, and cultural factors. Indeed, this study shows that underlying political factors, especially the degree to which the regulator or the mediating agency is able to perform its role independently of the State or the government of the day, determines the type and mode of control over television broadcasting. This seems to be of crucial importance in determining the extent to which a regulator can improve the whole broadcast sector.

This study went beyond the descriptive comparison of the national characteristics of television broadcasting and its regulations in the three countries, from which the similarities and differences of television broadcasting systems and their regulatory structures are prone to be generalised. More importantly, it explored some of the ways in which State control over television broadcasting can be understood as a practice of dominant culture.

In this regard, one of the most significant findings emerging from this study is that there is a close link between common cultural values, which are salient in the three countries, and their application to the regulatory practice of television broadcasting. This means that the State practice of controlling

television broadcasting in the three countries has been, to a considerable extent, culturally based. The major features of Confucian values dominant in all three countries, which were identified as collectivism, a greater emphasis on morality than on the law, and the pre-eminence of the national government as a centre of power, have been directly or indirectly manifested in maintaining the close relationship between the State and television broadcasters.

The laws relative to television broadcasting in each of the three countries, to a varying degree, determine the degree to which television broadcasters are required to obey. It is, however, equally important to stress that the laws have not been the most important basis in the three countries, by which the State exerts its control over television broadcasting. There are strong grounds in arguing this, especially in the case of Japan and Korea, where the State, as a centre of power, has controlled television broadcasting in a flexible, rather than rigid and fixed, mode. As evidenced in the previous chapters, the latitude with regard to State control over operation and programming has been particularly wide in the two countries, leaving room for exercising its influence at will.

While the application of Confucian values has been mainly notable in the State's exertion of its control, the same application has been also practiced amongst the television broadcasters themselves. This has been done, however, not with the broadcasters' free and genuine will and intentions, but

very much due to their anticipation and fear of State's disapproval and threats. This invariably led the relationship between the State and television broadcasters to being 'accommodated', in which the broadcasters continuously have had to seek to maintain close relationship with the State, by accommodating the State's wishes and interests.

The comparison of the regulatory history and structure, and the degree and mode of regulation in terms of relational and operational practice of television broadcasting in the three countries, provides some insights not only into the regulatory traditions and the related legal cultures of television broadcasting in each, but also into the perceived role of State regulation in television broadcasting in the modern Confucian States like Japan and Korea, and the colonial administrative State, namely Hong Kong. This means that, despite the variations in the significance attached to the State as a prime regulator, the differences in the control of television primarily depends on the political and government system, such as, independent/colonial and unitary/federal.

Another important issue raised from this study is the relative absence of public voices and opinions in television broadcasting. For example, the relationship between the State and television broadcasters in each of the three countries has been dependent upon how closely television serves the State's interests and priorities rather than the public's interests. Indeed, the State has projected its priorities and goals in

television broadcasting onto the public as part of the shaping and changing the society in accordance with its vision. This appears to be one of the critical issues that needs to be raised in the future role of the State in television broadcasting. In the past, the public interest in television broadcasting in the three countries has been virtually ignored, and if not, it was not seriously considered. There are some signs, although they are small, which challenge the role of television broadcasting and its regulator. For example, the general public in Japan and Korea are raising their voices about television broadcasting, via citizen's groups and organisations. However, it remains highly questionable whether the State in Japan and Korea can adequately deal with these unwanted external challenges.

#### 10.2. Likely Future Role of the State in Television Broadcasting in the Three Countries Studied.

Another major issue emerging from this study is that the current debate about the regionalisation and/or globalisation of television broadcasting, which has received a great deal of attention in other regions, especially in both Western and Eastern Europe, has been also felt in the three countries. The dominant themes in regionalisation and/or globalisation of television broadcasting, as witnessed in Western Europe in the 1980s, have been 'deregulation (or reregulation)' and 'privatisation'. Although the same themes have yet to take firm hold in Asia as a whole (Hoover, et. al., 1993), each of the three countries studied already shows, to a varying degree,

indications of their willingness to participate in the process of regionalisation/globalisation.

Hong Kong has been an active participant in regionalising television broadcasting by allowing the uplink of satellite signals from its own territory, notably in the case of STAR-TV, and by exporting programmes to its neighboring countries, such as Taiwan, mainland China, and Singapore, and to other parts of the world, mainly USA.

Japan also has been playing a significant role in the process of regionalisation and globalisation of television broadcasting, by exporting not only broadcast hardware, such as broadcast technologies and equipment, but also software, such as animation programmes. It is, however, interesting to note that Japan has been extremely cautious, mainly due to its past colonial history, about cultural imperialism in order to avoid any conflicts with its neighboring countries in the region, notably Korea, Taiwan, and Hong Kong. For this reason, although Japan has long enjoyed a significant export capacity in hardware and software, the inclusion of Japanese content has been normally avoided in advance. For example, although the Japanese animation programmes have long prevailed in many of the Asian countries (Tesoro, 1996; Kato, 1990), it is difficult to tell whether those programmes project the image of Japanese culture, or their appeals are more universal rather than specific to Japanese culture.

While Hong Kong and Japan have been active participants in the process of regionalisation of television broadcasting, Korea has been rather aloof in the process until the middle of 1990s, mainly due to the Government's strict policy on television broadcasting, which heavily protected its local industry. With the launch of a satellite television service due in 1997, which will uplink signals from Korea to its neighboring countries, it is quite clear that Korea is willing to participate in the process of regionalisation of television broadcasting, and ultimately develop an export capacity.

Despite these positive indications, however, the regionalisation of television broadcasting in the three countries in particular, and in Asia in general, remains unclear. This is particularly so when the exchange and trade of television programmes have been seriously hampered by geography, language differences, cultural conflicts, and differing technical standards (Menon, 1994). This difficulty is well demonstrated in the fact that the initial target audience for the international satellite television services in Japan and Korea is the compatriots of those countries, who are living or staying in the countries where the service is available, although their long-term aim is to broaden their services to other nationals.

With regard to television regulation, the notion of regionalisation has brought a minor, not decisive, shift in regulatory principles in the countries studied. This has been

particularly true in Japan and Korea, where the State has been reluctant to change the regulatory structure and its principles for a long time. This is in stark contrast to Western European countries, where the traditional principle of regulation, that is, the one of the public interest, has been shifted to and driven by economic and entrepreneurial imperatives (Morley & Robins, 1995).

It is, however, interesting to note that these entrepreneurial imperatives have already been visible in the region. For example, apart from his full purchase of STAR-TV in 1994, and partial involvement (10%) in the ownership of TV Asahi, one of the five Tokyo-based commercial television stations, Rupert Murdoch's aggressive launch of STAR Plus (Japan) in early 1996 and the expansion of its pay television service via dubbed Jskyb in Japan (*The Age*, 13/6/1996), are clearly the signs of economic and entrepreneurial dominance in global trends. Korea seems to still remain unconvinced in fully opening its television broadcasting to foreign entrepreneurs, although foreign investment is partially allowed in programme production for cable television.

The future role of the State in television broadcasting in the region appears to be uncertain. This is apart from the major political factors, especially Hong Kong's uncertainty after July 1997, mainly because of the State's perceived tension between its intention to maintain control over television broadcasting, on the one hand, and the emergence of

technological development which is changing the context of television broadcasting, that is, towards regionalisation and globalisation, on the other. Despite the uncertainties and differences in the perception and interpretation of the changing context, however, it is likely that the State in each of the three countries (including Hong Kong after 1997) will maintain a close relationship with the television broadcasters, by initiating, projecting, and formulating its policies without losing or lessening its control.

### 10.3. Possible Directions for Future Research.

In the current context in which issues relative to the globalisation and regionalisation of television broadcasting are actively being discussed, this study provides some insights into how a different set of factors could affect the degree and mode of State control over television broadcasting both at a national and regional level. As an attempt to identify the major factors which affect the role of the State in television broadcasting in the three homogeneous countries, in terms of culture, language, and nationality, the present study shows that, apart from political and economic factors, cultural values also have been reflected in the practice of controlling television broadcasting.

In conjunction with this, future studies in the region should include the audience. In a situation where the State has been the centre of the power, it would be useful to find out how



audiences themselves think of the State's regulation of television broadcasting. By doing so, it can also measure whether the 'loyalty to the government', another common feature of traditional Confucian values, is a salient feature in the practice of television broadcasting. Another important potential line of investigation, in relation to the findings of this study, would be to carry out similar comparative studies of the role of the State in television broadcasting in other parts of the region, where other cultural values predominate, for example, Islam and Hinduism. Once these are identified, the diversity of culture and its application to the practice of television broadcasting and its regulation in the region can be better understood.

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Corporate & Community Relations Manager, External Affairs Division, TVB.

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Senior Executive Officer, Broadcasting Authority.

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