

New measures to regulate OTT service providers

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Despite the fact that Taiwan's broadband market is flooded with over-the-top (OTT) media services, the National Communications Commission (NCC) has yet to regulate OTT service providers.

However, on 1 May 2019 the government issued a presidential order to amend the Copyright Act and outlaw malicious online infringement. The amended Article 87 of the Copyright Act, which came into effect on 3 May 2019, states that:

Those who knowing the work publicly broadcasted or publicly transmitted by third parties is an infringement of copyright with the intent to offer general public an Internet access to the infringing work by any of the following measures and to receive benefits therefrom shall be deemed infringers of copyright:

- (a) Provide public use of computer programs that aggregate the IP addresses of such works.*
- (b) Give guidance, assistance, or preset gateway for public use of above computer programs.*
- (c) Manufacture, import or sale of equipment or devices containing above computer programs.*

Under the revised act, parties which advertise or employ other active measures to solicit, incite or persuade the public to use illegal computer programs to access infringing content will be deemed to have acted intentionally. Guilty parties could face up to two years' imprisonment or detention and/or a maximum fine of NT\$500,000 (approximately \$16,000).

Since the order's enactment, local cable and satellite channel operators, together with music copyright collecting societies, have identified at least 42 OTT boxes and apps which may be considered illegal under the revised act.

Needless to say, the revised act has increased conflict between OTT box and app suppliers and licensed media operators. Further, while the new measures imposed on OTT service providers aim to protect rights holders and curb free riding in the telecoms sector, the task of regulating OTT media services is far from over.

The NCC has requested local carriers to examine their service agreements with potential OTT service providers to ensure that they comply with the revised act.

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