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Broadcasting Deregulation in South Korea

by Ki-sung Kwak

This paper examines the way in which new media technologies have compelled policymakers to adapt regulatory frameworks and to restructure television broadcasting in order to accommodate technological change in South Korea. It focuses on the policy tensions between highly centralized forms of media that focus on the mass audience and new media that not only fragment the audience but are also much harder to regulate. The Korean government's policy toward emerging broadcast media has allowed both existing and new players to participate in and develop different types of delivery platforms such as cable, satellite, digital multimedia broadcasting (DMB), and Internet protocol television (IPTV).

This paper discusses how the introduction of new broadcast technology in Korea has provided an opportunity for existing terrestrial broadcasters to further strengthen their position by cautiously becoming involved in infrastructure while continuing to focus on their most important asset—programming that can be transmitted by any number of technical modalities. It also argues that the perceptions and principles of television broadcasting long held by the state have altered significantly during the government of Lee Myung-bak. Unlike the previous governments' media policies that emphasized the public responsibility of television broadcasting, the current government's deregulation weighs in more on the side of the market economy.

Broadcasting Policy under Authoritarian Regimes

Significant changes in the structure of television broadcasting have taken place in Korea since the advent of television. These changes, without exception, have been made by the political leadership. During the period of authoritarian regimes (1962–92), the state used television broadcasting to project its aims and goals onto the public as part of the process of shaping and changing society in accordance with its vision, while the broadcasters were forced to serve the interests and priorities of the state rather than those of the public or other interests.

State control of television broadcasting in Korea was gradually intensified under authoritarian governments until 1987. Since 1987, however, the

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emerging political diversity provided by new governments has not brought any significant deregulation of the broadcasting industry. On the contrary, the state, to varying degrees, has exerted control within the established framework of restrictions and guidelines. This is well evidenced by the fact that the major regulatory framework that was created in 1963 remained virtually unchanged until the late 1990s, with the exception of the creation in 1981 of a seemingly independent regulatory body, the Korean Broadcasting Commission (KBC), whose role has been limited to monitoring and censoring, if necessary, the programs; it had no licensing power.

It is worth identifying some of the dominant features of television broadcasting under Korea's authoritarian governments. First, the state created a loose framework for broadcasting that was largely ambiguous, allowing the state maximum opportunity for control and intervention. The 1980 Basic Press Law, for example, broadly defined and defended individuals' rights, public morals, and social ethics; however, under this law journalists were prohibited from pursuing sensitive issues. Control measures used by the authoritarian governments included censorship by government officials who were placed in the newsrooms, issuance of weekly guidelines via memos, directing all media on how to handle given stories, and the prohibition on newspapers from stationing correspondents outside of Seoul. Second, state political control has largely remained unchanged in spite of the media reforms in 1980 and 1987 and the extension of television broadcasting structures, including the creation of new bodies—Seoul Broadcasting System (SBS), KBC, and Foundation for Broadcasting Culture (FBC).

Traditionally, broadcasting in Korea has been perceived by Korea's governments as a medium that should be responsible to the public. Virtually all areas of television broadcasting, such as operations, ownership, and programming, were tightly controlled by the government under the guise of protecting and respecting the public interest. In this context, television broadcasting has remained for the most part under the direct control of the state. Indeed, every new development in television broadcasting in Korea has been met by creating more of the same regulatory structures, with their usual shortcomings—lack of legislative base, lack of policy framework, lack of coordination between agencies, and lack of clarity of the roles and functions of agencies in order to form a consistent and functioning whole.

Emerging New Media and Regulatory Changes

Television broadcasting has traditionally been protected because of the fact of spectrum scarcity. Thus, regulatory frameworks have been based on a set of old rules that have safeguarded (terrestrial) television broadcasting as a distinct industry, and governments have created entry barriers to protect these privileged monopolies.[1] This traditional justification has been destroyed, however, since the development of new transmission technologies. As the number of delivery systems increases and alternative sources of finance become available, the role of governments in the process of accommodating new media technology has become more complicated. Yet, in the initial phase of development in the second half of the 1990s, new broadcast media in Korea have been loosely incorporated into the existing regulatory framework with the same logic that applied to terrestrial television broadcasting. A series of errors—for example, mismanagement of the cable television industry and political wrangling over the launch of satellite television—have hindered the development of a new television industry.

In Korea, the development of both cable and satellite TV was not driven by consumer demand, but by the government, which aimed to provide greater channel diversity. The expectation was that this would shield Korean viewers from exposure to foreign cultures, especially Japanese, and would promote economic competitiveness. When cable television was introduced in 1995, cable operators believed that, as long as they had licenses from the government, their future would be guaranteed. In the initial phase, however, there emerged a series of problems, such as poor government management and regulation and then an economic crisis, forcing the Korean government to deregulate the industry.[2] In the restructuring process, the Korean government in the late 1990s was forced to deregulate the cable industry after it failed to find a new model that was different from the conventional (terrestrial) television. Further deregulation was evident in the 2000 Broadcast Law, which not only provided a basis for the launch of satellite television but also relaxed the entry restrictions on several sectors of new broadcasting industry, such as multiple station operators and multiple program providers. This was a major turning point at which the government began to recognize that broadcasting was subject to economic imperatives similar to those of other industries.

Regulation of the new types of television broadcasting in Korea illustrates the importance of the political context. Although Korea launched its own satellite (Mugunghwa) in 1995, the start of satellite broadcasting service had long been hampered by the complete absence of a legal basis. Although the existing laws of the 1990s, namely the Broadcast Law and the Cable Broadcast Law, covered terrestrial and cable television service, respectively, a new law for satellite broadcasting was urgently needed. The issue of changing the existing broadcast law was first raised as early as 1993, when the newly elected president, Kim Young-sam, the first civilian president in Korea in more than thirty years, made it part of his media reform effort. As a result, the government proposed a new broadcast law, which would replace the existing Broadcast Law and Cable Broadcast Law. Since its introduction in Parliament, however, the proposed new broadcast law that provides a legal basis for satellite television has been continuously blocked in the legislature owing to differing interests on the key issues, namely the role of KBC and the permission for business conglomerates and newspaper companies to participate in satellite broadcasting.[3]

Later, attempts to further regulate television broadcasting through the proposed new broadcast law were bitterly overshadowed by political imperatives.[4] After a number of discussions and negotiations among the political parties, the proposed new broadcast law was expected to pass in Parliament. However, just before it was tabled in early December 1995, the proposed law was shelved until the next parliamentary session. The final decision came directly from the president's office, the Blue House.

Although several conclusions can be drawn from this sudden change, the most likely reason for the postponement of the proposed new broadcast law should be understood in the political context. At the end of 1995, politics in Korea was dominated by large political scandals. Former president Roh Tae-woo and his predecessor Chun Doo-hwan were charged with receiving illicit transfers from the slush funds of business conglomerates during their presidencies and with mutiny and sedition linked to their roles in the 1979 coup d'état and the 1980 massacre of hundreds of pro-democracy demonstrators in Kwangju. At the same time, in the run-up to the general parliamentary election in April 1996, both the government and the opposition had to minimize the potential damage caused by a series of political scandals. In this political context, the hasty passing of the controversial new broadcast law could have worsened the position of the government. Because the majority of past broadcast-related laws, such as the Basic Press Law in 1981 and the Cable Broadcast Law in 1989, were enacted without the opposition parties or the general public and broadcasters consenting to them, the government of that time, led by Kim Young-sam, did not want to create a profile similar to the previous governments.

Thus, the proposed new broadcast law was shelved in 1997 when other political issues, such as the acceptance of political slush funds by the president's son, dominated politics in Korea. At the same time, the government, facing the 1997 presidential election, needed to have a good relationship with the media in order to secure favorable coverage. The Unified Broadcast Law was finally passed in Parliament at the end of 1999, almost six years after the first draft was proposed. In the following year, Korea Digital Satellite Broadcasting (with the brand name of Skylife), a consortium of 159 companies including Korea Telecom and three national broadcasters (Korean

Broadcasting System [KBS], Munhwa Broadcasting Corporation [MBC], and SBS), was granted a monopoly license for satellite broadcasting.

In addition to cable and satellite platforms, the Korean government in 2005 granted licenses for two types of DMB service, terrestrial DMB and satellite DMB. As for the terrestrial DMB service, existing terrestrial broadcasters—KBS, SBS, MBC, and Christian Broadcasting Service—and Yonhap Television Network (YTN), a cable channel specializing in news and current affairs, and a consortium consisting of several small companies were granted licenses to operate on over-the-air signals. A telecommunication company, the SK Telecom-owned TU Media, was granted a satellite DMB license to provide video-on-the-move service that was beamed through a communication satellite.

The start of DMB marked the start of the telecommunication companies' participation in the broadcasting business. In many countries, telecommunication companies' participation in the broadcast business has been, to a varying degree, visible with the emergence of new technologies. While the level of their participation has been largely decided by government policies and regulations that were designed to accommodate the convergence of telecommunication and broadcasting, governments in many countries have allowed and plan to allow the telecommunication companies that have already established the delivery network infrastructure to enter the television business. The involvement of telecommunication companies in the broadcasting business in the form of pay television was a significant departure from the past regulatory structure that eliminated competition.

In Korea, telecommunication companies that provide high-speed Internet service have been keen to participate in the broadcast business. Korea became a world leader in high-speed broadband largely because the Korean government initiated and facilitated broadband development through its early commitment to high-speed infrastructure with specific programs such as low-interest loans. However, telecommunication companies' participation in the broadcast business utilizing their networks was limited until 2008. In early 2005, the Ministry of Information and Communication (MOIC) announced that the telecommunication companies would be allowed to provide broadcast service. However, two conditions were added. First, they were not allowed to start before 2007. Second, in the interim they would be allowed to offer only Internet content-on-demand service. MOIC justified its deliberate delay of the telecommunication companies' broadcast business by saying it needed to give the cable industry enough time to deploy digital set-top boxes and achieve digital subscriber penetration of at least 2.23 million by 2007 and roll out new services such as telephony and broadband services.[5]

Policy Change toward Competition

The convergence of broadcasting and telecommunications, due to rapidly developing technologies, has invariably prompted regulators in various parts of the world to redefine and restructure the broadcasting industry. To respond to these challenges, the Lee government announced the amendment of several media-related laws, which broadly cover IPTV, contents, digitalization, program export, frequency management, and upgrading network and Internet service.[6] The push by the Lee government for deregulation of broadcasting is well summarized in its proposed reform plan,[7] which emphasizes the strong need to strengthen the competitiveness of the local media industry in a global context and to encourage media to produce better content for viewers. This section briefly discusses two hot-button issues: IPTV and cross-media ownership.

Launch of IPTV

The ambiguous boundaries of the regulatory structure concerning IPTV under the previous dual regulatory structure—broadcasting regulated under the Broadcast Law by the KBC while telecommunications are regulated largely under the Telecommunications Law by the MOIC—have created confusion and conflicts. Accordingly, the lack of consensus among the state regulators was a factor that delayed the launch of IPTV. After the Lee government took office in 2008, these regulators were merged to form a single regulator, the Korea Communications Commission (KCC). Therefore, for the KCC, the launch of IPTV—a prime example of broadcasting-telecommunication convergence—has been not only a showcase of the new government but also an important boost for both the broadcasting and the telecommunication industries.

The government stressed that the launch of IPTV offers new growth opportunities in various sectors during 2009–13, with projections that the industry will generate 4,500 billion won worth of investment in the industry, the total market cost will reach 8,900 billion won, and 36,000 new jobs will be created.[8] These projections have been further supported by other government organizations, namely the Korea Information Society Development Institute and the Ministry of Strategy and Finance. These positive economic projections have been criticized, however, by opposition parties and citizens' organizations that claim that the data failed to reflect the financial difficulties the current pay TV market has faced. These concerns can be further explained in terms of the level of competition IPTV could bring to the industry as a whole and the capacity of the new IPTV platforms (Korea Telecom [KT], Lucky GoldStar Telecom [LGT], and Sun Kyung Telecom [SKT]) to secure programming.

In Korea, 95 percent of households subscribe to pay television. Among these, 88 percent (15 million households) subscribe to cable, while 12 percent (2 million) are satellite subscribers. In such a situation where the number of households subscribing to pay television has reached the near-saturation point, it is questionable whether another type of pay television—IPTV—would be competitive. Korean consumption patterns show that in cable television, in particular, despite a gradual increase in penetration rates, the industry has made only a very modest amount per subscriber. Since 2001, when the registration system replaced the existing license system for program providers, there has been a significant increase in the number of program providers—from 43 in 2001 to 180 in January 2004.[9] As a result, the number of cable subscribers has increased sharply, as the cable operators have provided more diverse programs and channels.

The financial difficulties resulting from the cable industry's low subscription fees can be seen easily if we look at the annual income generated from the subscription fee paid by each household. In 1998, for example, when price tiering was not allowed, the average annual income from the subscription fee was $185 per household.[10] It dropped to about one-third of that total by 2003. As of January 2009, more than 90 percent of 15 million cable subscribers take low tiering or cheap packages that cost $4 to $8 per month.[11]

In the case of terrestrial DMB, although 16 million receiver sets were sold in 2008, the service providers (terrestrial broadcasters) have faced serious financial difficulty because advertising, their only source of revenue, has declined.[12] Other providers of terrestrial DMB service—YTN DMB, Korea DMB, and Yuwon Media—recorded deficits totaling 17 billion won. Despite its slow increase in subscribers, Skylife—the sole direct-to-home satellite platform with slightly more than two million subscribers in total—saw a profit of 217 billon won in 2007. In contrast, the satellite DMB service operated by SK's TU media saw a deficit of 74 billion won.[13]

Another issue that has emerged with the launch of IPTV is that there has been little difference in programming offered by the various platforms. This is particularly true when we consider that a number of programs on cable and satellite have been provided by the same program providers. The government argued that IPTV, utilizing its convergence capacity, would provide more interactive services such as interactive education programs, dramas in which the audience can participate, and provision of comprehensive information portals.[14] It is, however, questionable whether interactive strengths alone can be commercially viable and attractive enough to make cable subscribers migrate to IPTV. Therefore the key question is: In a situation where the existing pay TV operators provide similar types of programs and packages, how will the IPTV operators differentiate their programs from those provided by different platforms? To promote IPTV, the proposed plan states that the regulator will closely monitor the cable television industry, station operators in particular, to see whether they monopolize the content by abusing their superior position in the market. At the same time, the government also encourages both program providers and terrestrial broadcasters to participate in IPTV as content providers.

Cross-Media Ownership

Another controversial issue contained in the proposed reform plan is the relaxation of cross-media ownership restriction that has prohibited newspaper companies and business conglomerates from owning shares in terrestrial broadcasting and cable news channels. The current ban on cross-media ownership has been in place since 1980 when the military regime led by Chun Doo-hwan forced all existing commercial broadcasters to be placed under the umbrella of public service broadcasting. MBC, owned by Kyung-Hyang Daily, became a public broadcaster while retaining its name, but Tongyang Broadcasting Company, owned by Samsung Group, was absorbed and renamed KBS2. The KBS-MBC monopoly remained in place until the 1990 launch of Seoul Broadcasting System (SBS), a commercial broadcaster.

The proposed bill, if passed, will allow large corporations and newspaper firms to have up to a 20 percent stake in terrestrial television broadcasters, and 49 percent in cable news channels (***Table 1***). The main justification for this move is to strengthen the competitiveness of the local media industry in the rapidly changing environment and to encourage both old and new players to provide better contents for the viewers.[15] While the regulations designed to prevent monopolies in more than one medium have varied among nations, cross-media ownerships are important particularly under aspects of competition because cross-marketing provides a substantial competitive advantage.[16]

In Korea, however, the logic of competition has been overshadowed by the cultural and political concept of broadcasting. This was well evidenced when the government regulated cable television in the mid-1990s. From the outset, the government regulated, rather than promoted, the cable television industry by strictly segregating station operators and program production. This has contributed significantly to hampering the development of cable television in its introductory stage.

The rationale of the deregulation was well expressed by one of the governing party's key members of Parliament, who submitted the law:

Table 1: **Proposed Deregulation of Media Ownership**

	Participation of conglomerates*	Foreign investment	Participation of newspapers and news agencies	Limit of individual ownership
Terrestrial	Banned ⇒ 20%	Banned	Banned ⇒ 20%	30% ⇒ 49%
Cable				
PP	Banned ⇒ 30%	Banned ⇒ 20%	Banned ⇒ 30%	30% ⇒ 49%
PP (news)	Banned ⇒ 49%	Banned ⇒ 20%	Banned ⇒ 49%	30% ⇒ 49%
SO	—	49%	33% ⇒ 49%	No limit
Satellite	49% ⇒ drop	33% ⇒ 49%	33% ⇒ 49%	No limit
DMB-T	—	—	—	30%
DMB-S	49%	33%	—	—
IPTV	No limit	49%	49%	No limit

Source: Annual Report [in Korean] (Seoul: Korea Communications Commission, 2009).
* Conglomerates are defined as businesses whose assets exceed 10 trillion won.
PP: Program Provider, except news programs
PP (news): Program Provider, news programs only
SO: Station Operator
DMB-T: Digital Multimedia Broadcasting, Terrestrial
DMB-S: Digital Multimedia Broadcasting, Satellite
IPTV: Internet Protocol Television

> The rapidly changing media environment has significantly weakened the traditional agenda-setting role of the newspapers, largely because of the restrictions imposed in 1980 which prohibited newspapers from participating broadcasting business. So, it is necessary to provide an opportunity for the struggling newspaper companies to develop and become a sustainable medium.[17]

Underlying this comment is, on the one hand, the dissatisfaction of the Grand National Party (GNP) with the national free-to-air television broadcasters (KBS and MBC in particular) during the previous reformist governments (1998–2007), and, on the other hand, the GNP's strong intention to support conservative newspapers by allowing them to take part in emerging broadcasting business. Indeed, under the reformist governments, the Roh Moo-hyun government in particular, the Korean media were polarized in that the conservative newspapers have aligned themselves with the GNP, while the national free-to-air television broadcasters sided with the government and the ruling parties (Democratic Party and Uri Party). The reform-oriented presidents' determination to weaken the power of media met strong resistance from the conservative newspapers.

The proposed bills were hailed by the major conservative newspapers such as the *Chosun Daily*, the *Dong-A Daily*, and the *JoongAng Daily*, which have been keen to provide broadcasting services. The proposition of deregulation of cross-media ownership, however, has met strong opposition from free-to-air television broadcasters and the media unions, such as the National Union of Media Workers, which claimed that the relaxation of cross-media ownership would eventually allow big business conglomerates and newspaper companies to have their own broadcasting services and that this would discourage independent and diverse views and limit freedom of expression.

Emerging Issues and Discussion

On the basis of an examination of the context in which new broadcast media—cable, satellite, DMB, and IPTV—have been introduced and developed in Korea, this paper has provided an overall background that explains the way in which the Korean state has restructured television broadcasting and its regulation. One of the most salient features noted in the restructuring process has been that regulatory intervention has been designed to protect the interests of the terrestrial broadcasters. This has largely proven to be true when we consider the extent to which the existing terrestrial broadcasters have been allowed to get involved in the emerging new delivery platforms. All three terrestrial broadcasters have been actively involved in the cable television business as program providers with their own cable channels.

All terrestrial broadcasters, furthermore, are the major shareholders of the newly started satellite broadcaster, Skylife; they were granted a license for terrestrial DMB service and, more recently, they signed a memorandum of understanding to supply their programs to the IPTV service that started in late 2008. The programs provided by terrestrial broadcasters have been favored in all new delivery platforms. The popularity of terrestrial broadcaster–owned pay channels has been another indicator that shows the superiority of terrestrial programs. Indeed, their drama and sports channels have been the most popular channels in both cable and satellite lineups.

Conversely, this means that terrestrial broadcasters' expansion into new media has not only weakened the possibility for new dominant players to evolve, but, to a certain extent, has discouraged the development of the new media industry as a whole. This explains how the terrestrial broadcasters, despite the challenges from cable and satellite channels, have maintained their dominance in the television industry in Korea. In a similar vein, it is fair to say that regulatory intervention in Korea has been designed to protect the interests of the terrestrial broadcasters. This has been clear from the fact that terrestrial broadcasters have been allowed to participate in various delivery platforms, the retransmission of their programs on other platforms has been prohibited, and the possibility for telecommunication companies to participate in broadcasting business has been delayed.

Another feature worth noting is that Korean broadcasting has experienced a gradual retreat from its traditional role—responsibility to the public—and an advance toward increased economic liberalization and expansion of market-based broadcasting services. Up until the late 1990s, the Korean government was preoccupied with the social and cultural aspects—the public responsibility—of broadcasting, and this has been reflected continuously in its broadcasting policies. This argument is well supported by the regulatory experience of public service broadcasting (MBC in particular) in the 1990s. Recognizing that partial reliance on advertising (as for KBS) or entire reliance on advertising (as for MBC) has been the major obstacle that undermined the very nature of public service broadcasting in Korea, a number of government-commissioned reports suggested that major structural changes be made to KBS and that MBC be privatized.[18] While the majority of the recommendations for KBS were adopted and implemented, none of those for MBC were adopted. This clearly shows that MBC's role as a public broadcaster, although it generates profits entirely from advertising, prevailed.

The Korean government began to embrace competition in its broadcasting policy in the late 1990s when the cable industry was near collapse. Since then, however, the process in which both the regulators and broadcasters have learned and adopted this market principle in the broadcasting industry has been slow.

The deregulation of cross-media ownership restrictions contained in the current proposed bill has posed a threat to incumbent broadcasters, as they fear new channels owned and operated by newspaper companies and big business conglomerates could significantly challenge their dominance. In this sense, deregulation can be seen as an important move to weaken, if not break, the terrestrial broadcasters' dominance and at the same time foster diversity and competition in both delivery platforms and contents. Although the level of resistance from the incumbent broadcasters, with support of the opposition parties and civil organizations, remains strong, it is yet to be seen whether their dominance can be justified again. The final fine-tuning of the proposed bills is due to be completed and tabled in the National Assembly in July 2009.

Regardless of the specifics of the fine-tuning, the key issue will be to what extent the system can continue to serve social and cultural objectives after it has been opened up to commercial imperatives.

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