

Global watch on culture and digital trade

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DIGITAL TRADE DEALS, ONLINE PLATFORMS AND REGULATION ISSUES

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Analytical report, September 2021

The September report, first, deals with the discussions regarding a plurilateral digital trade deal in the Asia-Pacific region under the leadership of the US administration. It also focuses on recent regulation developments, such as the debate about tighter regulation for video-on-demand (VOD) platforms in the United Kingdom (UK) and the policy changes adopted by Apple to its app store. Second, it turns to several cross-national activities of online platforms, highlighting strong competition among global and regional platforms in East Asia and emphasizing the activities of expansion carried out by Britbox, ITsART, Viaplay, as well as by Televisa and Univision.

Regulation issues, digital trade and culture

Towards a digital trade deal between the United States and countries in the Asia-Pacific region?

The US is “actively working” with other countries to establish digital trade rules and discussing how best to create new standards for digital economic activity, according to US Trade Representative Katherine Tai. As Inside US Trade pointed out, the US administration in recent months has been mulling a digital trade deal in the Indo-Pacific as a way to counter China and its ambitious trade agenda. In this respect, the US administration has discussed the perspectives for a digital trade deal with Singapore, Australia and Japan.



Early August, Dan Tehan, Australian minister for Trade, Tourism and Investment, said that more than half a dozen Asia-Pacific countries, such as Australia, Singapore, Japan, South Korea, Canada, New Zealand and Chile, are all prime candidates for a digital trade agreement.

Clearly, the more recent US-Japan Digital Trade Agreement, which took effect in January 2020, the Singapore-Australia Digital Trade Agreement, as well as the Singapore-New Zealand-Chile Digital Economy Partnership Agreement (DEPA) could serve as a blueprint for establishing a new plurilateral digital trade deal designed under the leadership of the US administration. Besides, it is worth mentioning that the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the US-Mexico-Canada Agreement both have a digital trade chapter. According to the Asia Trade Center, “the US is missing opportunities in the digital space as a result of its limited existing network of trade agreements”. As such, according to W. Cutler and J. Meltzer, a regional digital trade pact would provide at least three benefits: uniting a group of countries in pursuit of common norms; being an important jolt for slow-paced World Trade Organization digital-trade negotiations; representing a US return to the “trade game in Asia”, while it considers the merits of rejoining the CPTPP.

It is worth recalling that the US administration withdrew from the Trans-Pacific Partnership (TPP) in 2017. The remaining 11 countries - Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam - reworked the deal into the CPTPP, putting aside some provisions the US had insisted on. As such, during the TPP negotiations and under pressure from the US administration, the previous conservative Canadian government of S. Harper had assented Canada’s cultural exemption with two restrictive clauses pertaining to the digital field. The clauses prevented Canada to adopt “discriminatory requirements on service suppliers or investors to make financial contributions for Canadian content development” and “measures restricting the access to on-line foreign audio-visual content”. Following the withdrawal of the United States, the new liberal government concluded side letters with the ten remaining signatory countries in order to maintain the whole of Canada’s cultural exemption.



Clearly, as more trade goes digital following the effect of the COVID-19 pandemic, the debate regarding data regulations and privacy becomes more urgent in the agenda of trade negotiations than the issue of quotas and tariffs. According to the Wall Street Journal, “thriving trade in high-tech goods and services requires certainty over where data should be stored and under what circumstances it can cross borders”. As such, during the negotiations on digital trade deals, it is crucial to justify the economic, social and cultural importance of maintaining the capacity of governments to adopt public measures in order to protect and promote the diversity of cultural expressions in a digital environment.

Toward tighter regulation for VOD platforms in the UK

End of June 2021, the UK Department for Digital Culture, Media and Sport has announced its intention to subject the major US streamers, including Netflix, Amazon and Disney Plus to British broadcasting laws, bringing them in line with the traditional broadcasters such as the BBC, ITV, Sky and others. The UK media regulator Ofcom holds British broadcasters to certain norms with respect to impartiality, fairness and harm and offence, but the US-based VOD services do not fall under the existing regulation. The Department also intends to adopt measures to “level the playing field so public service broadcasters can compete with international rivals”. A broadcasting white paper is expected in the autumn.

Apple agrees to app store policy changes

Following major anti-trust and legal challenges around the world, Apple has agreed to make some changes to its App Store policy as part of a proposed legal settlement which will allow app developers to contact customers for informing them about alternate payment methods that don't carry Apple's commission fee. Apple has also agreed to create a 100 million USD fund for payouts to small app developers and not to raise its commission rate for small developers for at least three years.

Instead, in a statement, the Coalition for App Fairness – an association of over 60 members including Spotify and Deezer – pointed out that “Apple's sham settlement offer is nothing more than a desperate attempt to avoid the judgement of courts, regulators and legislators worldwide”.



As the New York Times mentioned, the settlement appears to be “a small price to pay for the world’s richest company to avoid another extended legal fight that could have posed major risks to its business by targeting the iPhone App Store. In practice, some major companies, such as Spotify, already push their customers to evade Apple’s commissions”.

Worldwide activities of online platforms

East Asia: a battleground for global and regional platforms

The Hong-Kong based platform Viu is now Southeast Asia’s second largest streaming service by paid subscribers, trailing only Disney Plus. It has overtaken Netflix in raw subscriptions terms. It is worth noting that, unlike Netflix, Viu adopts a hybrid economic model offering some content for free and some only available to its paying subscribers. According to Variety, Disney Plus has some 6 million subscribers in Indonesia, Malaysia, the Philippines, Singapore, and Thailand, followed by Viu with 5.2 million subscribers and Netflix with 4.8 million subscribers.

Disney leads VOD growth, adding an estimated 3.6 million new paying subscribers in the first six months of the year, benefiting from a strong launch in Thailand at the end of June 2021. In addition, Disney Plus will launch in South Korea, Hong Kong and Taiwan in November 2021. Disney Plus is currently available in Asia and Oceania in eight countries: Australia, New Zealand, Japan, Singapore, India, Malaysia, Indonesia and Thailand.

As of July 2021, Disney Plus stood at 116 million subscribers worldwide, while Netflix reached at 209.2 million subscribers. Besides, Disney’s two US-only services also posted important gains in the second quarter of the year: Hulu subscribers grew 21% to 42.8 million and ESPN Plus 75% to 14.9 million. As such, the three streamers owned by Disney company total 173.7 million subscribers compared to 101.5 million a year ago.



Streaming platforms searching for expansion

The British streaming platform BritBox, jointly owned by the public broadcaster BBC and the private operator ITV, launched on August 6 in South Africa. The UK-based group has already more than 2 million subscribers and it is present in the US, UK, Canada and Australia. In the South African market, five VOD platforms have already been established: three US-based VOD platforms, i.e., Netflix, Amazon Prime Video and Apple TV+, Showmax, which is part of South African MultiChoice Group, as well as TelkomONE, owned jointly by South Africa's leading telecommunications company Telkom and the public operator South African Broadcasting Corporation (SABC).

In addition, ITsART, a new streaming platform commissioned by Italy's Culture ministry is set to roll out across Europe in October and in the United States next year. The ad-supported and transactional VOD service will offer content ranging from virtual monuments and museum tours to live opera, theater and movies. ITsART CEO Giano Biagini mentioned that "the idea is to provide a common platform that can reach a growing audience of consumers of Italian art and culture around the world". The majority 51% share in ITsART belongs to the Italian government's investment bank CDP, while Chili TV, a European on-demand film platform backed by Warner Bros., Paramount, Fox and Sony holds a 49% stake.

Furthermore, the Nordic Entertainment Group's streamer Viaplay has launched in Poland in August, with the US to follow in late 2021, the Netherlands in early 2022 and further eight international markets by the end of 2023. It is now available in nine European countries (Sweden, Norway, Denmark, Finland, Iceland, Latvia, Lithuania, Estonia, and Poland) and has around 3.5 million subscribers.

Finally, two of the biggest Spanish-language media companies in the world are planning to merge. Grupo Televisa, Mexico's largest broadcaster, will associate itself with US broadcaster Univision to establish a new Spanish-language media company with plans to launch a global streaming platform. The new company, called Televisa Univision, will be "the largest Spanish-language media company in the world" with bases in the two biggest Spanish-speaking markets: Mexico and the United States. It will feature content from both broadcasters, including series, movies, sports and signature soap operas known as "telenovelas".



Grupo Televisa's assets in Mexico include four over-the-air channels, 27 pay-TV networks, movie studio Videocine and the VOD service Blim, as well as a telecom business. Univision Holdings Inc. has the Univision and UniMas broadcast networks, 61 local TV stations and 58 radio stations, along with digital assets including its recently launched VOD platform PrendeTV. Televisa Univision is planning to launch a global streaming platform for the "significantly undeserved Spanish-language market" in early 2022.

Additional readings for the July report:

Africa's oldest dance festival evolves to overcome the pandemic, The Conversation, 23 August 2021, [Link](#).

Fewer episodes, more foreign owners: the incredible shrinking of Australian TV drama, The Conversation, 23 August 2021, [Link](#).

Kenya is moving aggressively to tax digital business. What next? The Conversation, 22 August 2021, [Link](#).

The more video streaming services we get, the more we'll turn to piracy, The Conversation, 17 August 2021, [Link](#).

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- New plans to boost Britain's broadcasters and protect viewers on video-on-demand channels, GOV.UK, 23 juin, [Lien](#).
- Apple Avoids Another Legal Fight With App Developers, The New York Times, 26 août, [Lien](#).
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- British streaming service BritBox to launch in SA - here's how it compares to Showmax, Netflix, others, Business Insider, 30 juillet, [Lien](#).
- Mexico's Televisa says to merge content with Univision in new media company, Reuters, 14 avril, [Lien](#).
- Italian Arts and Music Events Streamer ITsART Set to Roll out in Europe, US, Variety, 19 août, [Lien](#).

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