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### CENSORSHIP AS AN INSTRUMENT TO PROTECT THE PUBLIC INTEREST: THE CONCEPTUAL FRAMEWORK

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#### **ABSTRACT**

This article deliberates the conceptual framework for censorship as a powerful instrument to protect the public interest in relation to over-the-top (OTT) streaming media content in Malaysia. The transformation of technology has made the convergence of telecommunication and broadcast networks seamless. Thus, the boundaries between the telecommunication and broadcasting industries disappeared. This resulted in the viewers being able to watch the OTT streaming media content on any type of devices. The success of OTT streaming media services depends on audience's gratification, which will subsequently lead to continued subscription to these services. However, there are uncensored content accessible from OTT streaming media players' library that may lessen the viewers' satisfaction. Thus, based on the combination of Users and Gratification Theory (UGT) and Public Interest Theory, Theory, the researcher developed a conceptual framework to study this phenomenon as a guide to paths of research and offer the underpinning for establishing its reliability.

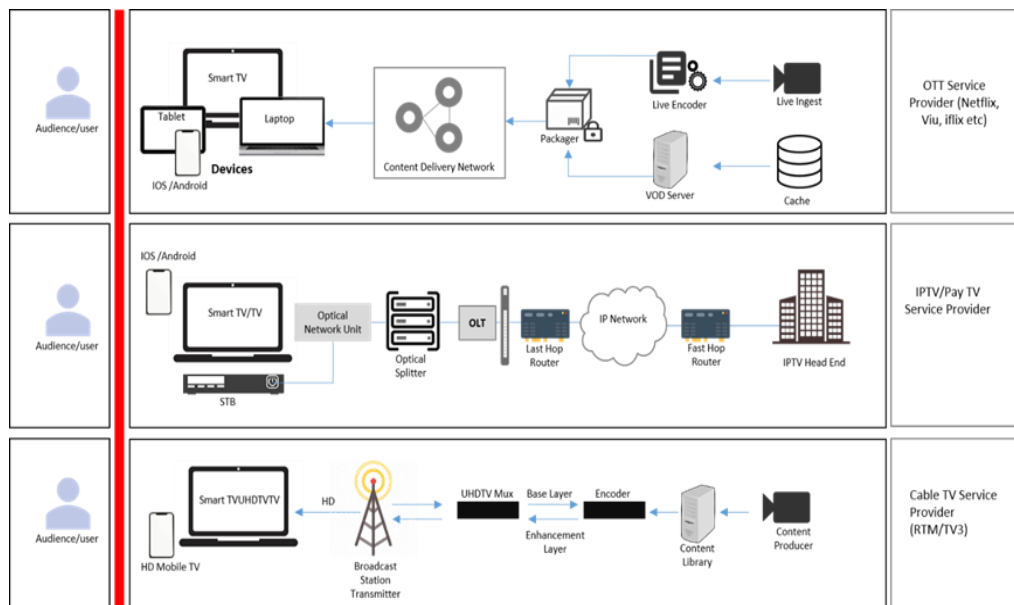
## INTRODUCTION

Malaysia is a nation governed by rules and regulation that protect our rights as citizens. Since the earliest days of the founding of Malaysia, there has been several pieces of legislation that bound all people living in the community. Two important drivers in justifying policies and rules is to prevent and self-restraint, aimed to ensure long-term benefits to the general public. The function of these laws is not limited to protecting the public interest, but also mirrors civilization. According to Kriken (2019), the civilization and barbarism distinction the structures of human thinking about most significant aspects of social and political life. In the Malaysian context, civilization is also shaped by historical, *adat* (customary practices and tradition), 3Rs (race, religion and royalty) and cultural factors. In general, the laws of Malaysia are mainly based on the common law legal system. Prior to market liberalization, the telecommunication and broadcasting industries were separate markets. However, in 2002, the government stripped away the sectoral Acts and replaced them with the Communications and Multimedia Act 1998 (CMA 1998) to facilitate the convergence in ICT-related activities. Thus, the CMA 1998 has been articulated to support both technology and service neutral (Safinaz Mohd Hussein, 2005). On the other hand, the Malaysian Communications and Multimedia Commission (MCMC) is of the view that streaming media such as Netflix, Amazon Prime Video, Viu and iflix services should be classified as different markets compared to traditional broadcasters (MCMC, 2015) due to different playing fields. Thus, no regulation is imposed by MCMC to OTT streaming media at this juncture.

However, this article opined that there is only one broadcasting market in Malaysia. Firstly, the content services, whether provisioned on cable, terrestrial, digital, satellite, IP or Internet link, are considered as growth engines for the Malaysian Networked Content Industry Initiatives (“NCI”). As such, we do not consider that there is any rationale for the separation between the content broadcasted via linear TV and non-linear TV such as the OTT platform market, including the approach of mandating the censorship for OTT media content. Secondly, the approach of uniform content regulation is also consistent with the technology neutral principle as advocated in the CMA 1998. In this perspective, the technology is transparent to the end users who are often not aware of the technology being used to access the content at any given point. The access network is only a transport layer to provide connectivity in order to access the content. The speedy adoption of advance technology and the innovation of smartphones have resulted in customers being easily swayed by various mobile apps that changed their lifestyle into digital mobility. A stable Internet connection will lead to consumers being able to stream media without the buffering that appears when streaming online content. It is clear that the Internet has become a catalyst for digital media broadcasting via online content delivery. Each content distributed by OTT media players can also be reached via tablets, smartphones, smart TV, personal computers, and other suitable devices with an Internet connection.

Despite booming demand for content aired via OTT media platforms, there is rising debate on issues not limited to uncensored content involving elements such as LGBTQ (Malaysia, 2019), X-rated, explicit language and violence, which could bring negative influence to society. Most of OTT media players such as Netflix do not censor the content of the shows, movies and drama series that are available on their platforms. Thus, the audience has full access to the uncensored version of movies and drama series, which can be accessed within the OTT media player’s data storage (Lavanya & Ramachandran, 2011; Asma Md. Isa et al., 2019). Apart from not having censorship for OTT media, there are also no policies such as compliance to service quality parameters and/or rate regulation being imposed on OTT media players (Becot et al., 2015).

Furthermore, regardless of the type of devices used, whether smart TV or smartphone, the users always have the experience of watching the content through small or big screen. The fact is, the approach towards OTT media should reflect the phenomenon of convergence, which is reducing differences between platforms in the broadcasting sector. As such, the market definition should be defined in terms of substitutability, which in many cases is determined by the user’s experience (see Figure 1 below). Lack of efficient regulation and self-regulation (Chang Peng Kee et al., 2015) of OTTs demands settlement of a discussion platform where all these issues could be put forward and solved. Therefore, this paper attempts to build contemporary studies to investigate both intrinsic motive and public perception towards uncensored content broadcasted via OTT media platform and its relationship with audience gratification in Malaysia.



**Figure 1:** Content provision with various options for access solution

To respond to the gap as abovementioned context, the current study focuses precisely on these issues of uncensored content via OTT media streaming in

Malaysia. At macro level, this paper is important as it illuminates a particular angle of Malaysian sensitivities. The reason being uncensored content is insensitive as it broadcasts unwanted scenes that could potentially facilitate various deconstructive processes against the improvement of society. Since the article focuses on censorship in the Malaysian context, it is important to first clarify the general value of multi-ethnic and multi-religious societies that reflect Malaysian family values. In the next section, this article elaborates on the background of linear and non-linear media. Following this, the article provides a definition of censorship and deliberates its nature. It then describes the public interest based on this important phenomenon. Finally, the article discusses the measurement relevant to the research in the context of censorship being provided as validating evidence of the proposed conceptual framework

## LITERATURE REVIEW

### *The important good family value system*

Like any other region, Malaysians are living daily lives in a context where family and domestic spheres are crucial, where religion, moral, *adat* and culture have become central in shaping family values. Malaysia has often been described as a culturally sensitive and conservative nation due to its diverse races (Asma Abdullah & Lrong Lim, 2001), the accommodative and tolerance nature of the people as part of their culture that demonstrated impact of Islam. Despite the cultural influence of the Chinese and Indian communities in Malaysia, the Malays became the “base” culture and Islam became the pillar for the formation of the Malaysian culture and administration. In line with economic changes, Malaysia has developed an advanced and modern educational system that has transformed the people into a smart society (Abdul Rahman Embong, 2002). To be precise, education is a key agent of change in society. Education has contributed significantly in improving Malaysians’ skills and the level of adoption of advance technology is also high. The latest technology has transformed the media landscape into something more exciting and convenient in the modern life of society in general, especially in the aspect of obtaining information and entertainment. Although the existence of convergence technology has changed how Malaysians manage their life, the foundation for family values has never changed. The reason is that family values give you principles and give you a taste of how sweet life can be. In the context of Malaysian society, rules and regulation such as parenting control start at home as it is part of family values and education. Each country has different values and cultures, which OTT streaming media providers have to deal with, especially in a cross-cultural context. (Young Times, 1995). Thus, it is very important for these OTT streaming media providers to understand that the values and culture in Malaysia may be not similar with the other parts of the continent or world. These cross-cultural differences should be addressed with country-specific management. In general, Malaysia is a conservative society. Although watching TV programs together with family are a routine for many Malaysians, but they do not discuss sex-related topics openly. The

assumption that content broadcasted through the OTT media platform is universal in nature may result in a low level of acceptance among the local audience.

### ***Linear and non-linear broadcasting media in Malaysia***

Linear broadcast media in Malaysia is often deemed as strictly politically controlled. Previous laws in Malaysia allowed the monopoly of media ownership simply because in the past, the only national television channel RTM 1, formerly known as Rangkaian Satu, which was established in 1963, was owned by the government (Chang Peng Kee et al., 2015). In 2011, Tun Abdullah Ahmad Badawi, the prime minister at that time, announced some major changes and the reformation of law to allow greater media freedom (Weiss, 2012). This is consistent with spirit of Communications and Multimedia Act 1998 (CMA 1998), where the government stripped away the regulation that had previously protected broadcasters, Internet service providers, telecommunication service providers, cellular service providers and value-added service providers from competing with one another. For clarity, linear broadcasting media are provided in a continuous real time manner, with the service provider setting the time of transmission and the specific content that will be shown at a given time instead of the viewer. However, since 2012, linear TV, in particular in Asian markets, including Malaysia, has been under pressure due to the emergence of non-linear broadcasting (MCMC, 2018). In contrast, non-linear services such as OTT streaming media are those where the audience chooses the content from a library of offerings, thereby allowing the viewer to choose the genre of content to view and the time of viewing. Non-linear audiovisual services are also known as OTT streaming media or subscription video on-demand (SVOD). Tonton was Malaysia's first OTT streaming media when Media Prima Berhad first launched it in 2010. OTT streaming media, generally known as Internet TV, became prominent in 2012 (Dzaa Imma Abdul Latiff et al., 2016). The global borderless nature of OTT services led to a situation where the OTT media global players such as Netflix, YouTube Premium, Amazon Prime Video, Viu expanded their footprint to Malaysia. Clearly, Malaysia, like other countries, is accepting a new model of broadcasting in the form of OTT media platforms, where the audience is able to watch the content that is accessible via the Internet. OTT streaming media is an alternative to information seeking, socializing, entertainment and escapism, which are typically how people actively seek out specific media to meet specific needs.

### ***Censorship and public interest***

Regulatory theory is an instrument used by the government to ensure social justice and protect the public interest, where related regulatory bodies have the power to formulate laws and implement regulation. There have been many studies evaluating the influence of these bodies in both media and communications studies and in public policy. For example, in Singapore, the Infocomm Media Development Authority (IMDA) has directed Netflix to

remove streaming content that pertains to drug use and religion, namely shows such as *Cooking on High*, *The Legend of 420* and *Disjointed* in 2018. In 2019, IMDA demanded Netflix cease showing *The Last Temptation of Christ* and the latest show which was removed was *The Last Hangover* in 2020 (Sustainability Accounting Standards Board, 2019). Apart from the above, IMDA also imposed its content classification to all OTT streaming media players (Asma Md. Isa et al., 2020). It also required the OTT media service providers to further display ratings and themes, including notifying the audience if there are any violence, nudity, language, drug use or horror being depicted. Religious and cultural values are matters that are closely related to society and inseparable (Nazra Aliff & Abdul Latiff Ahmad, 2020) for a conservative society such as Malaysia. This study uses censorship as a direct effect and mediator towards audience gratification, meaning without censorship, the audience may not achieve gratification.

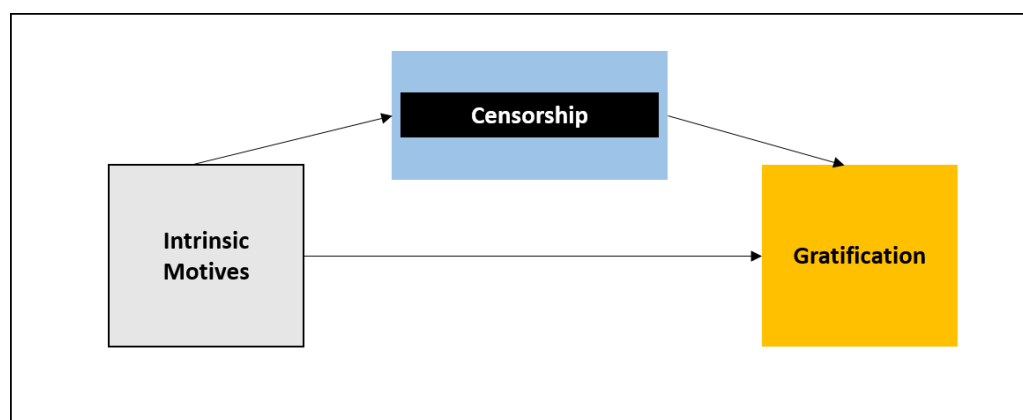
The OTT streaming media allows society to enjoy the free flow of content, including uncensored scenes that may be detrimental the public interest and the well-being of a society in a number of important ways. For instance, Netflix, through “Original Netflix”, wants more audience to see the real lives and cultures reflected on screen in a universal context (Sustainability Accounting Standards Board, 2019). Malaysia has no objection to media freedom as long as it does not conflict with civil and sharia law. For clarity, as a sovereign country, Malaysia does not recognise explicit content such as scenes of same-sex relationships and same-sex sexual activity as these scenes are deemed immoral and illegal in the country. Malaysian law has also never recognized the adoption of children by same-sex couples due to maintaining family lineage as espouse by Islamic law. All insensitive content related to sex, excessive violence, drug use, LGBTQ or any other content that could disrupt national peace and unity are prohibited from being aired via linear TV. However, MCMC has a different approach to OTT media content. This issue has been raised by Kuala Kangsar Member of Parliament to the formerly serving Minister of Communications and Multimedia regarding the government's action plan to address inappropriate content, for example, on Netflix (Dewan Rakyat, 2019). Furthermore, based on previous studies (Chang Peng Kee et al., 2015), self-censorship has proven to be unsuccessful as the industry is not ready for self-regulation.

### **SCOPE OF STUDY**

The researchers have set limits to some criteria in developing the conceptual framework of this study. Firstly, this study does not include the issue of intellectual property rights because it is under the jurisdiction of intellectual property (IP) where the application is intended to preserve, protect and enforce intellectual property rights. Therefore, the issue of piracy will not be discussed in this study. Secondly, this study only focuses on areas with high Internet penetration rates because there are still digital gaps, especially in rural areas that still do not have broadband access.

### **CONCEPTUAL FRAMEWORK**

As OTT streaming media proliferate and evolve, the demand for content is changing from linear TV to non-linear TV. Thus, OTT media platform can be considered as substitute to linear TV. Taking into account that UGT is an approach to understanding why and how viewers actively seek out specific media to satisfy specific needs, this study employed information seeking, entertainment and escapism as intrinsic motives for audience in Malaysia to watch content aired via OTT media platform. Furthermore, UGT are the hallmark of vigorous viewers' theoretical approach in communication (Lobato, 2018) and media studies. Meanwhile, the theory of public interest associated to censorship is employed as a mediator variable to measure the perception of the audience watching OTT media to achieve gratification. Therefore, the proposed conceptual framework for this article is as follows:



**Figure 2:** Conceptual Framework

In a clearer context, the intrinsic motives will be the direct variable which measures the direct effect on gratification. Meanwhile, censorship becomes the mediator variable towards gratification. This study makes attempts to prove that without censorship as a mediator, audience gratification cannot be fully achieved.

## CONCLUSION

This article has introduced the concept of censorship on OTT streaming media as well as proposed a conceptual framework for further understanding. It is a unique and important phenomenon that audience with typical motives has relatively disregarded uncensored content. The article has limited the scope of the concept to the right of intellectual property and focuses only on areas with high penetration broadband rate in Malaysia. The conceptual framework has located the concept within a societal analysis of the importance of good family value system, linear and non-linear TV and censorship as an instrument to protect the long-term benefits of the general public, which are all crucial elements for communication and media studies in a well-functioning society. Based on the propose conceptual framework, this study will proceed to further investigate how censorship on OTT streaming media content will affect audience perceptions to achieve gratification in Malaysia.

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