
Innovation and Censorship of Television in China

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China has embarked on a difficult transition from high growth fueled by reliance on investment and manufacturing to growth based on consumption and the service sector. For this new economic model, the key to sustaining growth is innovation. Innovation will continue to be supported by large fiscal and tax subsidies in the 13th Five-Year Plan period (2016-2020) and beyond as well as by various industrial policies to foster the growth of domestic companies, which may continue to hamper market access for foreign competitors. Many such policies are grouped under the rubric Made in China 2025. Affected industries are as varied as alternative fuel vehicles, information and communications technology, medical devices and pharmaceuticals.

While the likelihood of success of such policies in making Chinese manufacturing more successful is unclear, the promulgation of policies that among other things restrict the ability to “publish” on the Internet seems perversely likely to have a dampening effect on innovation in the creative economy regarded as essential to China's projection of soft power [[see also the March 10, 2016 WilmerHale alert "Tightening Internet Regulation in China"](#)].

Of particular concern to the television industry are the [General Principles on the Content and Production of Television Dramas](#) (General Principles) dated December 31, 2015 but not made public until March 3, 2016. The General Principles, formulated in accordance with the Regulations on the Management of Content in Television Dramas (2010) (Regulations) are intended to guide the television industry to avoid risk and engage in healthy production, i.e., to conform the production of dramas to politically acceptable genres with politically correct content. The 11 specific categories of prohibited content under Article 5 of the Regulations—e.g., violation of the Constitution or laws; harm to natural unity, sovereignty or territorial integrity—are reiterated in Article 4 of the General Principles. However, Article 5 of the General Principles goes on to list 51 additional types of prohibited content, such as not being in accordance with China's national condition or social system, playing up social problems or the dark side of society, and the catch-all anything that violates the spirit of laws or regulations or does not help national construction and development.

The General Principles are also significant because they were not formulated by a government agency and therefore were exempt from any requirement to provide an opportunity for public comment. The General Principles were instead jointly issued by the recently formed China Alliance of Radio, Film and Television (Alliance) and the China Television Drama Production Industry

Association. These two industry self-disciplinary associations effectively function as auxiliaries of the government industry supervisor, the State Administration of Press, Publication, Radio, Film and Television (SAPPRFT), in enforcing government policy with respect to content transmitted through the mass media and, at least indirectly, the Internet. Indeed, the Alliance was formed on May 29, 2014 to carry out Party policy which is superior to government policy.

Moreover, while Article 11 of the Anti-Monopoly Law authorizes industry associations to strengthen self-discipline within the industry, guide competition in accordance with law, and safeguard market competition order, the power of the self-disciplinary associations under Article 8 of the General Principles to punish violations by cancelling member qualifications raises risks of anti-competitive conduct.

The intensification of censorship with respect to television dramas also raises questions about the impact on the industry. Will broader restrictions on content lead to a decline in originality or innovation? If so, will it in turn impact viewership as well as the ability to export programs to foreign audiences to enhance China's soft power as well as for commercial reasons? Will some artists involved in the production of television dramas leave the industry to find more creative avenues for their talents?

Foreign companies interested in licensing or coproducing television dramas to Chinese audiences will have to take even more care in reviewing script production to avoid offending China's politically driven cultural mandates.

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