

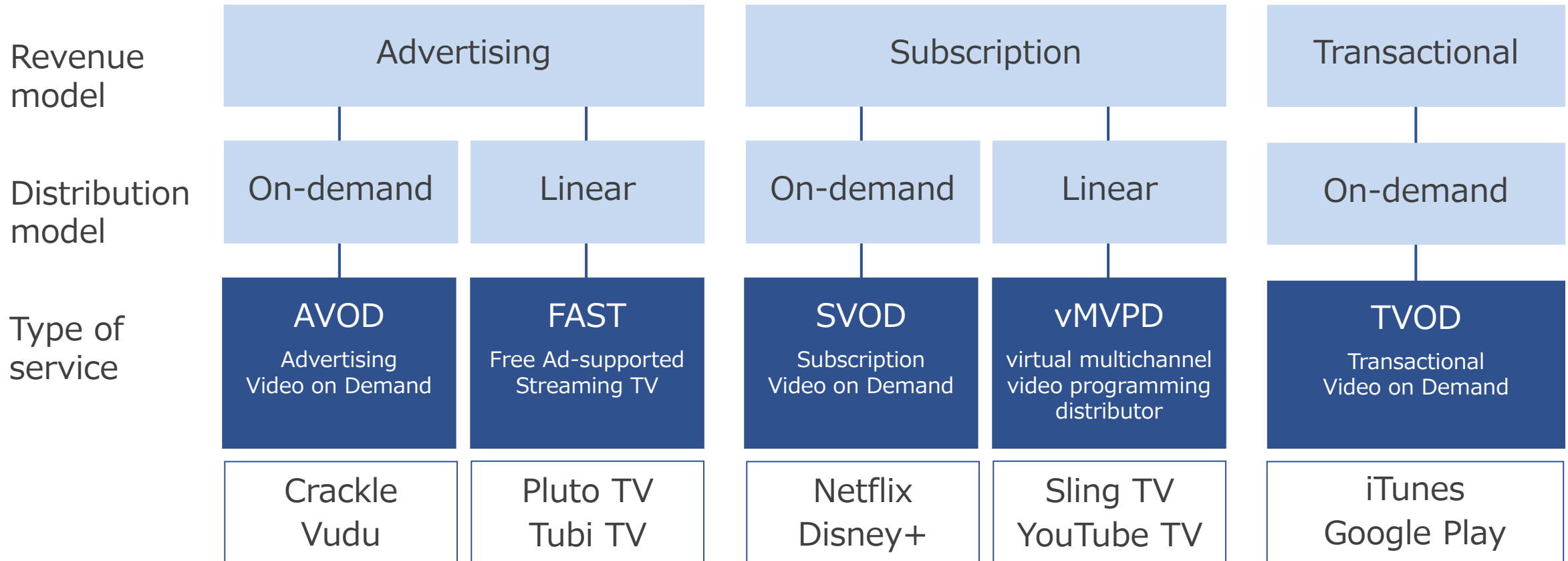
Regulatory responses to the rise of global video streaming giants: Discussions on local content contribution

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Types of video streaming services

- As the global video streaming market competition intensified, its service variation diversified more.
- **SVOD is leading the global video streaming market.**



Global expansion of US SVODs



- 3 major **US SVODs have targeted global expansion** since early stage.

Platform	Headquarter	Operating countries	Global subs. (2022)
Netflix	United States	190	230.75 million
Amazon Prime Video	United States	200	200 million?
Tencent Video/WeTV	China	110	120 million
Disney+	United States	130	104.3 million
iQIYI	China	191	103.1 million
HBO Max/Discovery+	United States	57	96.10 million
Paramount+	United States	28	77 million
Disney+Hotstar	India	4	57.50 million
ALTBalaji	India	70	40 million
Eros Now	India	150	39.90 million
Viu	Hong Kong	16	12.20 million

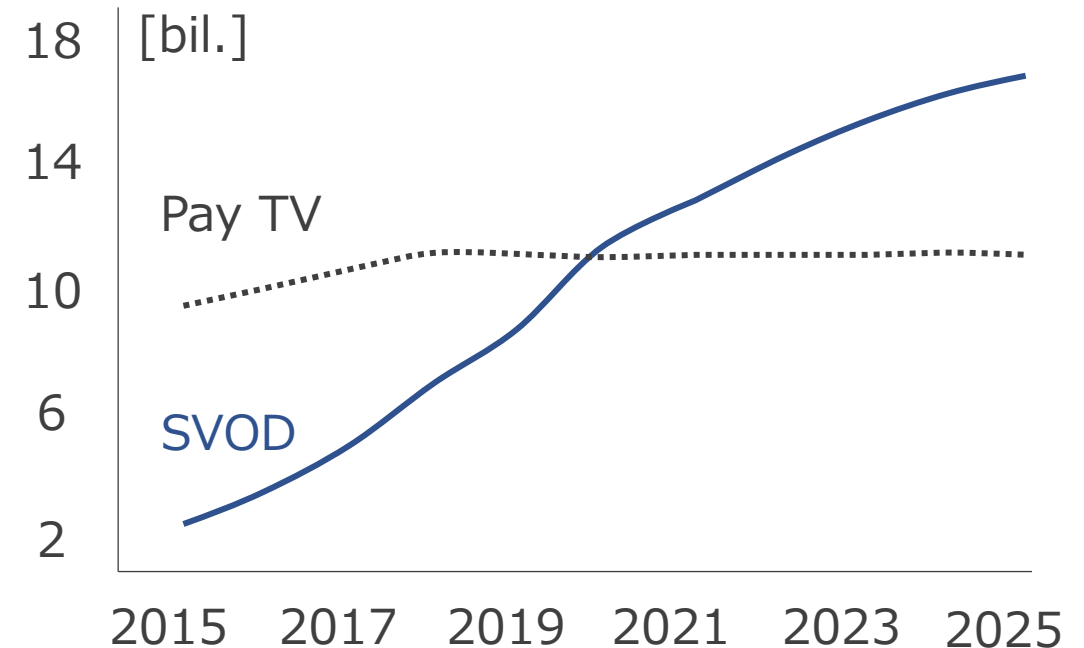
US SVODs impact on the broadcasting industry

- Exclusive content distributed by US SVODs obtained popularity worldwide.
- Consumers in mature SVOD markets such as North America and Western Europe are **moving away from pay TV**.

Emmy Award wins by platform

Platform	2021	2022
HBO (pay TV network)	19	38
Netflix (SVOD)	44	26
Hulu (SVOD)	0	10
Disney+ (SVOD)	14	9
Apple TV+ (SVOD)	10	9

Global subs. of pay TV and SVOD



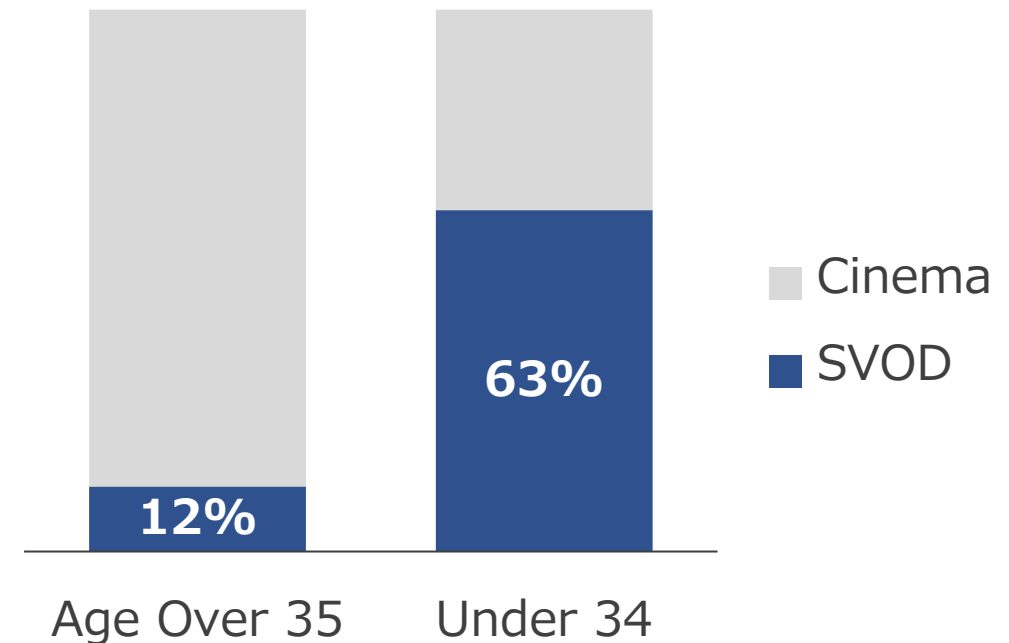
US SVODs impact on the film industry

- Exclusive content distributed by US SVODs obtained popularity worldwide.
- Consumers in mature SVOD markets such as North America and Western Europe are **moving away from cinema**.

Academy Award wins by studio

Studio	2021	2022
Warner Bros.	19	38
Walt Disney	44	26
Apple Original Films	0	10
Netflix	14	9
Focus Features	10	9

Preference on watching films



Regulations against US SVODs (1)

- More countries are regulating video streaming platforms to counter US SVODs.
- The point of contention is possible unfair market competition led by **regulatory asymmetry between broadcasting and video streaming platforms.**

Regulations on video streaming platform

Points in terms of broadcasting regulations

- Structural regulations
 - licensing
 - ownership rules
 - foreign investment rules
 - accessibility rules
- Content regulations
 - censorship
 - content quotas
 - advertising rules
 - emergency alert rules
- Other regulations
 - rights of rebuttal
 - content complaint system
 - program syndication rules
 - content production fund

Points in terms of film regulations

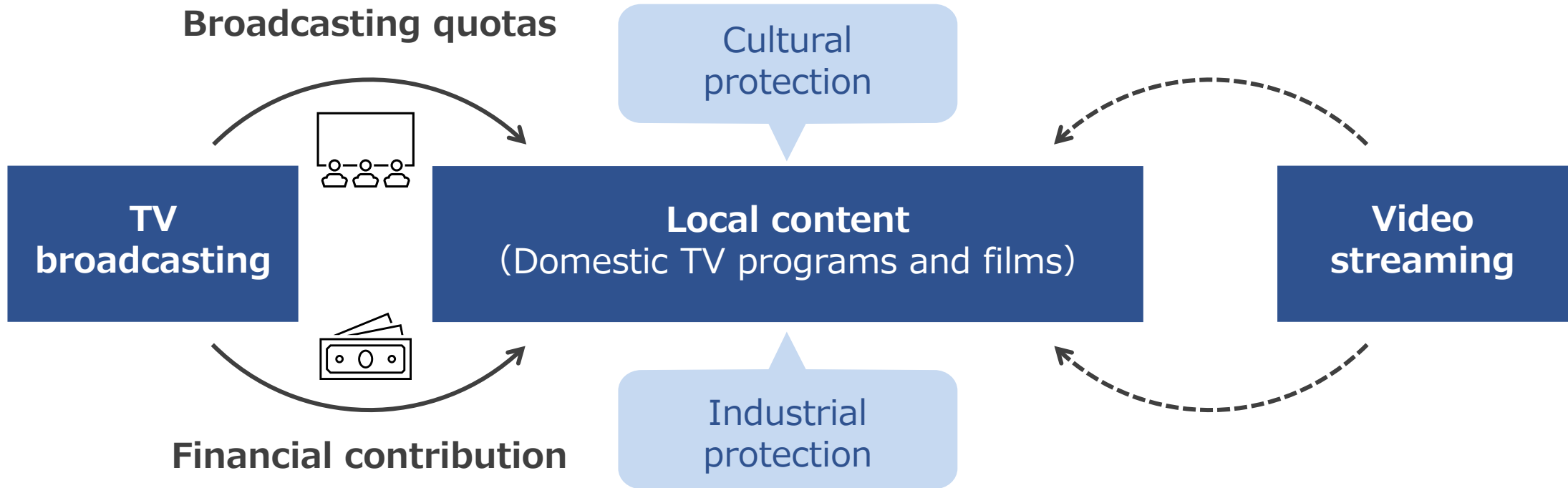
Censorship, content rating system, content quotas, content production fund, etc.

Regulations on general digital platform

Fair competition, fair taxation, privacy protection, content moderation, etc.

Regulations against US SVODs (2)

- More countries are imposing similar regulations on video streaming platforms to the ones that they have done on broadcasting platforms.
- European and British Commonwealth countries are **requiring video streaming platforms to contribute to local content.**



Local content requirements on video streaming

Country	Law, regulation, policy paper, etc.
EU	Revised Audiovisual Media Services Directive (2018)
France	Decree No. 2021-793 (2021), etc.
UK	Draft Media Bill (2023), etc.
Switzerland	Amendment of the Federal Act on Film Production and Film Culture (2022)
Canada	C-11 Online Streaming Act (2023)
Australia	Cultural Policy for the next five years: REVIVE (2023)
South Africa	Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety (2023)
Israel	The Broadcasting Bill (2023)

Historical development of AV media policy

○ — 1980's Spread of pay TV and accelerated influx of US content

○ — 1987 **Television without Frontiers Directive (TWFD)**
Provided regulatory framework for TV broadcasting

○ — 2007 **Audiovisual Media Services Directive (AVMSD)**
Extended broadcasting regulations to VOD platforms,
e.g., Advertising rules, minor protection rules

○ — **2018 Revised AVMSD**
Extended broadcasting regulations to VOD platforms,
e.g., **local content requirements**

a) Quota and prominence obligations

Member States shall ensure that VOD providers under their jurisdiction secure at least a 30% share of European works in their catalogues and ensure they are given prominence.

b) Financial contribution

Member States may require VOD providers under their jurisdiction or targeting audiences in their territories but established in other Member States to contribute financially to the production of European works.

All Member States had notified of the revised AVMSD's transposition into national law by February 2023.

Transposition of revised AVMSD into national law (Decree No. 2021-793)

a) Quota and prominence obligations

VOD providers above a certain threshold under French jurisdiction shall:

- Ensure a 60% share of European and a 40% share of French works in their catalogues.
- Ensure such works are given prominence.

b) Financial contribution

VOD providers above a certain threshold targeting French audiences shall:

- Spend a portion of their French revenues on European works (direct financial contribution).
- Contribute to the French film fund, the National Centre for Cinema and the Moving Image (indirect financial contribution).

Updated Media Chronology Rule, effective from February 2022

Industry agreement on release window of films

- SVODs can distribute films 17 months after cinematic release.
- However, it may be shortened to 6 months with agreement of the film industry.

Netflix negotiated a 15 month window in return for extra investment in French films.



Disney threatens to bypass French cinemas unless rules are relaxed.

UK: Brexit and taking a maverick approach

Pre-Brexit: Transposition of revised AVMSD (Amended Communications Act 2003)

a) Quota and prominence obligations

VOD providers above a certain threshold under UK's jurisdiction shall:

- Ensure a 30% share of European works in their catalogues.
- Ensure such works are given prominence.

b) Financial contribution

None.

Post-Brexit: Draft Media Bill 2023

Provide prominence for public service broadcasters (PSBs) not only on video streaming platforms but also on connected devices.

What is PSB?

PBSs are broadcasters intended for public benefit rather than to serve purely commercial interests and they are granted privileged access to scarce spectrum in return for various content obligations. As of 2023, publicly-owned BBC and Channel 4 and privately-owned Channel 3 and 5 are PSBs.

Connected devices should give prominence to PSBs' video streaming services



Smart TVs



Streaming devices



Remote controls

Historical development of Canadian Content (CanCon) rules

- — 1991 **The Broadcasting Act** was brought in to safeguard the cultural, political, social and economic fabric of Canada from the content superpower, the US.
 - a) CanCon Quota
Broadcasters shall produce and/or broadcast a certain percentage of CanCon.
 - b) Financial contribution for CanCon
Broadcasters shall spend a portion of their revenues into CanCon.
- N** — 2007

Criteria of CanCon

 - The producer of the program must be a Canadian.
 - The production must employ a minimum number of Canadians in key creative positions.
 - The director or screenwriter and one of the two highest-paid lead performers must be Canadian.
 - At least 75% of all costs incurred for production services must be for services provided in Canada.
- — 2015 The government launched the **discussion on the “discoverability” of CanCon.**
- — **2023 C-11 Online Streaming Act**
To modernize the Broadcasting Act of 1991 and establish a level playing field between broadcasting and video streaming platforms:
 - Add video streaming undertakings as one of distinct classes of broadcasting undertakings.
 - **Apply CanCon rules to both domestic and foreign video streaming platforms.**

Historical development of AV media policy

- 1982 **The Communications Act**
[Financial contribution for Israeli works](#)
Pay TV operators above a certain threshold shall invest a portion of their revenues into Israeli works.
- N** 2016 **Netflix launched in Israel**
- 2022 **Draft Bill on the Principles of Regulation of the Provision of AV Content to the Public**
 - By the Lapid government (centrist)
 - [Require video streaming platforms to financially contribute to Israeli works.](#)
- **2023 The Broadcasting Bill**
 - By the Netanyahu government (right-wing)
 - [Require video streaming platforms to financially contribute to Israeli works.](#)
 - Establish a new authority that will regulate both broadcasting and video streaming platforms including foreign ones.

Netflix's claim

- Netflix claims that **legal compulsion to contribute to local content would be “anti-consumer.”**

Content Quotas

Quotas would merely encourage spending on quantity over quality to meet an arbitrary number. Mass-producing cheaper and lower-quality works would not produce a beneficial outcome for either consumers or creators.

Prominence

“Tweaking” recommendations in ways that undermine viewer choice and preferences would lead to a disappointing viewing experience and generate negative reactions to local content.

Spending Requirements

“Market forces” are sufficient to motivate foreign video streaming platforms to invest in local content. Netflix has already spent a significant amount of money on local content.

Contributions to fund

Foreign video streaming platforms are brought into the system but do not have access to any of those sources of funding – which is potentially discriminatory.

Disney+ reshaping their international strategy



*“Not all markets are created equal. And in terms of our march to profitability, one of the ways we believe we’re going to do that is by **creating priorities internationally**”*

Walt Disney Company’s Q3 2023 Earnings Call by CEO Bob Iger.

**High-potential
markets**

Continue to invest in local content and provide full service.

**Mid-potential
markets**

Invest less in local content but still maintain the service.

**Low-potential
markets**

May shut down the service.

So far, there has been no regulatory discussion regarding the contribution to local content by video streaming platforms.

Reasons (Hypothesis)

- 1** The playing field between broadcasting and video streaming platforms is relatively level in Japan.
- 2** Japan is a Galapagos market where broadcasters are not much damaged by US SVOD giants.

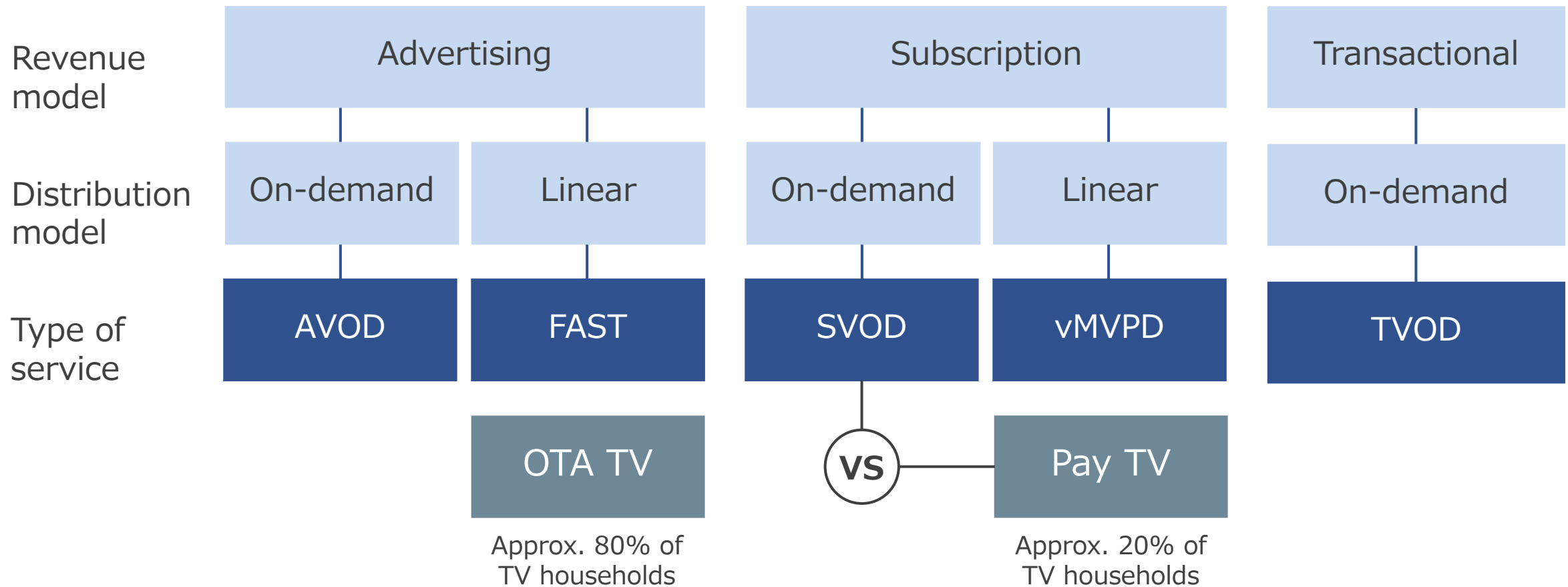
Reason 1: The playing field is relatively level

- Broadcasting regulations, especially content regulations, in Japan are more relaxed than in European and in British Commonwealth countries.
- **The Broadcasting Act of 1950 does not contain any provision requiring contributions to local content.**

Definition in the Broadcasting Act of 1950		Broadcasting			Video Streaming	
		The act of transmitting through telecommunications content intended to be received by the public			n/a	
		Basic Broadcasting	General Broadcasting			
		Broadcasting using frequencies allocated either exclusively or preferentially	broadcasting which does not fall under basic broadcasting			
Major regulations	Entry regulations	License, authorization	Registration, notification		n/a	
	Program editing rules	✓	✓		n/a	
	Broadcasting code	✓	✓ (n/a for small business)		n/a	
	Disaster-broadcasting rules	✓	n/a		n/a	
Network		Wireless		Wired	IP Multicast	IP Unicast
Platform		OTA TV	Satellite TV	Cable TV	IPTV	Video Streaming

Reason 2: Broadcasters are not much damaged

- Majority of Japanese TV households watch TV via OTA signals.
- **There's no direct conflict of interests between OTA broadcasters and US SVOD giants.**



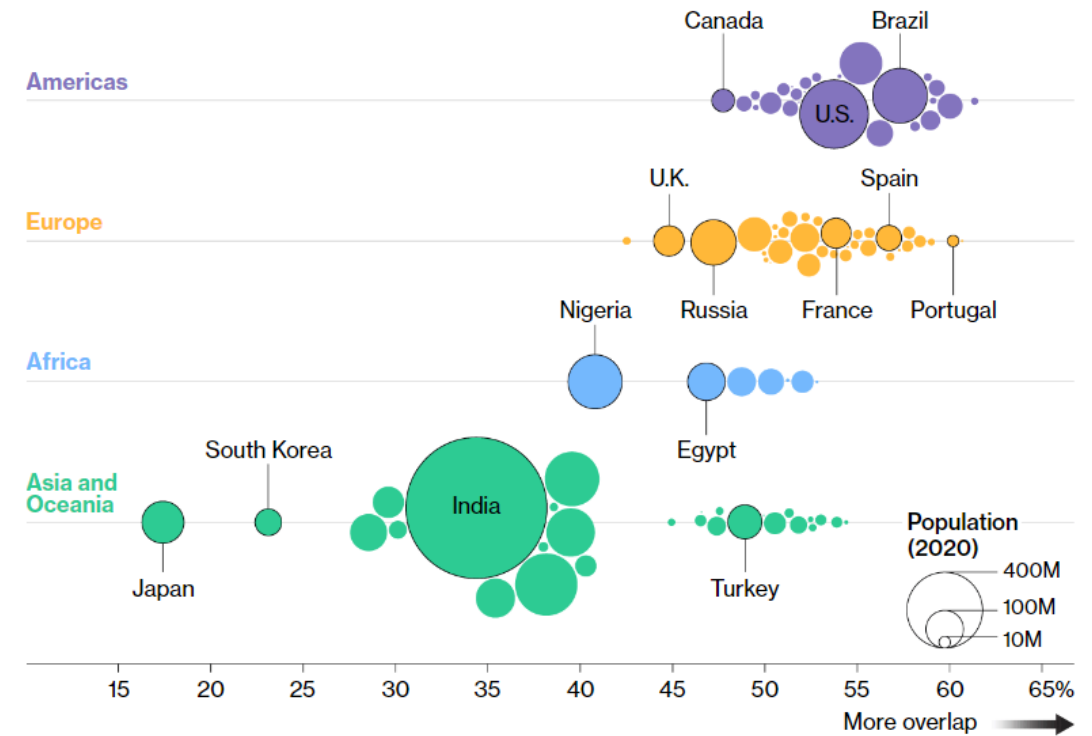
Reason 2: Broadcasters are not much damaged

- Japanese viewers watch local content on US SVOD platforms.
- **US SVOD giants are not threat but instead, rather new channels to distribute Japanese content to Japanese viewers.**

Country of origin of frequently watched content on video streaming platforms (multiple answers allowed)

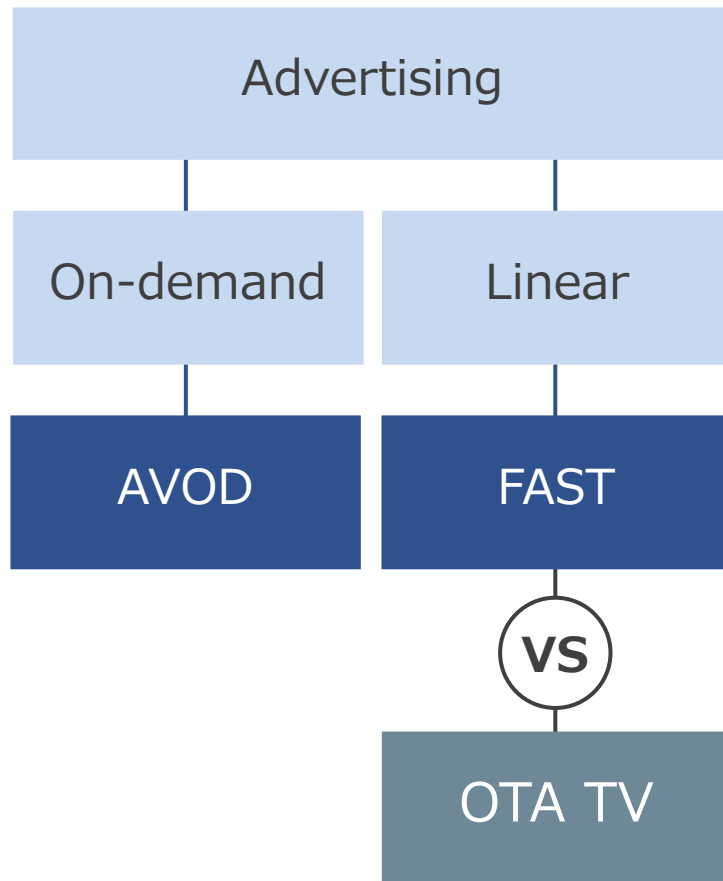
Age	18-20s	30s	40s	50s	60s	70s
Japan	85.0%	88.7%	91.6%	95.2%	79.3%	81.8%
US	20.0%	14.5%	17.6%	14.5%	35.6%	33.3%
South Korea	5.0%	8.1%	11.8%	7.6%	10.3%	6.1%
UK	5.0%	4.8%	2.5%	5.5%	18.4%	9.1%
China	0.0%	6.5%	4.2%	4.8%	1.1%	3.0%
India	0.0%	1.6%	1.7%	0.0%	0.0%	3.0%
Others	0.0%	1.6%	0.8%	2.1%	1.1%	6.1%

Share of top 10 programs in major Netflix Markets that also appear in global rankings



So, can Japanese broadcasters keep enjoying easy days?

- US FASTs may have a direct conflict of interests with OTA broadcasters if launched in Japan.
- However, it is unknown if US FASTs become popular in Japan.



Major US FAST platforms			
Platform	No. of channels	Operating countries	MAU (2022)
Pluto TV	250+	30	79 million
Roku Channel	350+	18	70 million
Tubi TV	200+	10	64 million
Plex Live TV	850+	195	16 million
Freevee	280+	3	n/a

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