

ASEAN – HONG KONG, CHINA FREE TRADE AGREEMENT

Specific Commitments¹ of ASEAN Member States (AMS) on Audiovisual Services and Other Communication Services

Modes of supply²: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
Brunei Darussalam	No commitment	Not applicable	Not applicable

¹ As extracted from the Schedules of Specific Commitments of ASEAN Member States. The full schedules can be found in Trade and Industry Department's website at http://www.tid.gov.hk/english/ita/fta/hkasean/text_agreement.html.

² See explanatory note at Annex.

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AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
Cambodia	No commitment	Not applicable	Not applicable

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
Indonesia	No commitment	Not applicable	Not applicable

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

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Laos PDR	No commitment	Not applicable	Not applicable

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
Malaysia	D. Audiovisual Services		
	Motion picture, video tape and audio recording distribution services (CPC 96113)	1) Commercial presence is required 2) None 3) Only through a locally incorporated joint-venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding shall not exceed 30 per cent. 4) Unbound except as indicated in 1 (a) and (b) and 2 (a) and (c) in the horizontal section.	1) Unbound 2) None 3) None 4) Unbound, except for the categories of natural persons referred to under market access.

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Myanmar	D. Audiovisual Services		
	Motion Picture Projection Services (CPC 9612)	1) None	1) None
		2) None	2) None
		3) Unbound	3) Unbound
		4) Unbound	4) Unbound
	Cinema Theatre Services	1) None	1) None
2) None		2) None	
3) Unbound		3) Unbound	
4) Unbound		4) Unbound	

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The Philippines	No commitment	Not applicable	Not applicable

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

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Singapore	D. Audiovisual Services		
	<p>(i) the services covered are production, distribution and public display of</p> <ul style="list-style-type: none"> - motion pictures - video recordings - sound recordings, except where excluded under (ii) (CPC 9611, CPC 9612) <p>(ii) All broadcasting and AV services and materials that are broadcasting-related are excluded, examples being</p> <ul style="list-style-type: none"> - Free-to-air broadcasting - Cable and pay television - Direct broadcasting by satellite - Teletext 	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound except as indicated in the horizontal Section</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound</p>

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Thailand	D. Audiovisual Services		
	(a) Motion picture and video tape production and distribution services: Film/video production and distribution services, excluding promotion or advertising services (CPC 96112**+96113**)	1) Unbound 2) None 3) As indicated in 3.1 of the horizontal section 4) As indicated in the horizontal section	1) Unbound 2) None 3) As indicated in the horizontal section 4) As indicated in the horizontal section
	Video tape production services for scientific education (CPC Version 1.1: 96121**)	1) Unbound 2) None 3) As indicated in 3.2 of the horizontal section 4) Unbound	1) Unbound 2) None 3) As indicated in the horizontal section 4) Unbound
	(c) Radio and television services (CPC 9613): Radio/television services only for production of radio/TV programmes	1) Unbound	1) Unbound

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	(CPC 96131**+96132**)	2) None 3) As indicated in 3.1 of the horizontal section 4) As indicated in the horizontal section	2) None 3) As indicated in the horizontal section 4) As indicated in the horizontal section
	(e) Sound recording services: Production of sound recording only (exclude all broadcasting and AV services)	1) None 2) None 3) As indicated in 3.1 of the horizontal section 4) Unbound	1) None 2) None 3) As indicated in the horizontal section 4) Unbound

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

AMS	Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment
Viet Nam	D. Audiovisual Services		
	With regard to motion picture production, distribution and projection services, all films must have their content censored by Viet Nam's competent authorities.		
	- Motion picture distribution (CPC 96113, excl. video tape)	1) Unbound. 2) None. 3) Only through business cooperation contract or joint venture with Vietnamese partners who are authorized to provide these services in Viet Nam. Foreign capital contribution shall not exceed 51% of the legal capital of the joint venture. 4) Unbound, except as indicated in the horizontal section.	1) Unbound. 2) None. 3) None. 4) Unbound, except as indicated in the horizontal section.
(b) Motion picture projection service (CPC 96121)	1) Unbound. 2) None. 3) Only through business cooperation contracts or joint venture with	1) Unbound. 2) None. 3) None.	

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		<p>Vietnamese partners who are authorized to provide these services in Viet Nam. Foreign capital contribution shall not exceed 51% of legal capital.</p> <p>Viet Nam's houses of culture, film projection place, public cinema clubs and societies and mobile projection teams are not allowed to engage in business cooperation contract or joint-venture with foreign service suppliers.</p> <p>4) Unbound, except as indicated in the horizontal section.</p>	<p>4) Unbound, except as indicated in the horizontal section.</p>
	(e) Sound recording	<p>1) Unbound.</p> <p>2) None.</p> <p>3) Unbound.</p> <p>4) Unbound, except as indicated in</p>	<p>1) Unbound.</p> <p>2) None.</p> <p>3) Unbound.</p> <p>4) Unbound, except as indicated in</p>

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		the horizontal section.	the horizontal section.

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EXPLANATIONS OF THE FOUR MODES OF SUPPLY FOR TRADE IN SERVICES

Cross Border Supply (Mode 1)

The cross border mode of supply refers to the supply of service from the area of an FTA party into the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 1, a service supplier of the other Party of the FTA (i.e. Party B) can supply the service within the area of Party B to service consumers in the area of Party A, without being physically present in the area of Party A. An example is the supply of consultancy service through telecommunications, fax or mail etc.

Consumption Abroad (Mode 2)

The consumption abroad mode of supply refers to the supply of service in the area of an FTA party to the service consumer of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 2, a service supplier of Party B can, within the area of Party B, provide the service to consumers of Party A who are present in the area of Party B. An example is the supply of hotel services.

Commercial Presence (Mode 3)

The commercial presence mode of supply refers to the supply of service by a service supplier of an FTA party, through commercial presence in the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 3, a service supplier of Party B can provide the service within the area of Party A through commercial presence in the area of Party A. This covers the presence of juridical persons (e.g. corporations, joint ventures, partnership, sole proprietorship, trust, association) as well as representative offices, branches etc.

Movement of Natural Person (Mode 4)

The movement of natural person mode of supply refers to the supply of service by a service supplier of an FTA party, through the presence of their natural persons in the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 4, a service supplier of Party B can provide the service within the area of Party A through the presence of natural persons of Party B. This covers natural persons who are themselves service suppliers, as well as natural persons who are employees of service suppliers (e.g. accountants of accounting firms).