The Legal Possibilities and Limitations of Local Broadcasting

Joon-Ho Lee

Abstract

This study proposes realistic and effective solutions for encouraging Korean local broadcasting stations in gaining balanced abilities compared to key stations. Several rationales and values for local media are reviewed and current issues on the 'Special Law of Local Broadcasting Development' are discussed. Based on these reviews and discussions, practical solutions for vitalizing local broadcasting stations will be proposed. Korean local stations are not actually developing due to the centralization and unilateralism of the country and also due to the lack of effectiveness of the two regulatory laws of broadcasting. In conclusion, a philosophy of locality needs to be developed as well as changing fundamental ideas supporting the viability of Korean local media. Also, it is time to discard the policy of personnel and financial inequality between key stations and local stations.

Keywords: Local Broadcasting, Balanced Development, Locality, Broadcasting Policy, Centralization

1. Introduction - Intent of the Study

Local broadcasting is an important element of social capital at the local level that contributes to the development of local societies and communities. It does this by being a community communication channel that provides local residents with reliability, a high living standard, and community values. However, due to the centralization of society and economy in Korea, Korean local broadcasting industries have experienced an unprecedented shrink and depression in terms of their general management and advertising sales. The proportion of television programs provided by local television stations was only between 15% and 32% in 2016 because the average production cost for local programs was less than 20% of nationwide programs[1]. In terms of advertising revenue, the amount of all the local stations’s advertising combined sales was less than a half of nationwide stations whose total number was much less than that of local stations.

In order to solve these problems, Korean broadcasting authorities have made several efforts...
to vitalize local broadcasting since 1994 by organizing a series of policy-making committees. They organized and established committees for local broadcasting in 1994, 2000, 2003, 2005, 2009, and 2014. As a result, they proposed a *Special Law of Local Broadcasting Development* that was legislated and enacted in 2014. The current Korean government led by president Moon, Jaein proposed a national agenda with a balanced development policy for local communities during the 2017 presidential election campaign period, and is now preparing to activate it. Nevertheless, Korean local broadcasting stations are still facing financial difficulties and a loss of their power in shaping local public opinion because many legal elements of Korean broadcast law concerning the regulation of broadcasting lack effective and realistic support for local broadcasters. This problem is also because the Korean government seldom encourages balanced development between Seoul and other regions. Since the majority of Koreans, including politicians and broadcasters, have traditionally felt that Seoul’s interests must supercede the interests of other regions.

This study intends to suggest several effective and realistic solutions to encourage local broadcasting stations to develop balanced abilities and products comparable to nationwide broadcasting stations. In order to do this, several rationales and values of local broadcasting will be reviewed, and current issues concerning the *Special Law of Local Broadcasting Development* will be discussed. Based on the reviews and discussions, core practical solutions needed to revitalize Korean local broadcasting stations will also be proposed.

### 2. The Rationale and Value of Local Broadcasting

Local broadcasting media serve the important function of being a kind of ‘surveillance’. They provide local residents with specific news and information about community affairs. This functions to reflect a diversity of interest and emotion local residents have in their minds. These functions contribute to forming and collecting many kinds of differentiated local public opinions in democratic ways[2]. As the local media have roles promoting public interest of a country by vitalizing local politics, diversifying centralized political power, and forming inherent local identities, most democratic countries consider the idea of ‘localism’ as one of the most important elements of implementation of public interest[3].

The local media play an inevitable and a complementary role that nationwide broadcasters are not able to do: gathering and reporting very specific and local-friendly news items and content. These locally produced news and programs are irreplaceable by nationwide news and
content, and are very useful for local daily life. Local media devote themselves to national development by finding and encouraging local talent, protecting cultural heritage and are agile in ways national media outlets are not. The locality generated by the regional media can excavate core local abilities and can identify social, as well as cultural heritage that contributes to national development. In this vein, locally based media are sometimes described as forms of “economic and social capital” for a region[4]. They are an important advertising source for local industry and commerce as well. Therefore, it has been consistently argued that widespread local broadcast media must be carefully considered and operated in each locality in order to promote a sense of public interest, fairness, diversity, and balance.

Currently, South Korea’s national competitiveness level has almost stagnated and has become seriously limited due to massive centralization and unilateralism throughout the country since the Seoul Metropolitan area is where over 50% of population, national wealth, jobs, taxes, and cultural, educational resources are concentrated. Nevertheless, the Korean government is not willing to reduce or solve this problem, and only urge that the fruits of the preemptive development of Seoul will trickle down to the bottom (non-Seoul regions) gradually. This phenomena is sometimes called “internal colonialism.”[5] Korea lacks and needs portfolio strategies throughout regions and reciprocity between Seoul and the rest of the nation. Thus it is necessary to define a responsible and independent role for local broadcasting media in order to reduce overcrowdedness in Seoul and enhance the balanced development of South Korea.

3. Purposes and Ineffectiveness of the Korean Broadcasting Laws

The purposes of Korean Broadcast Law are “to protect the rights of audiences, to form public opinion democratically, to enhance our national culture, and to contribute to the development of broadcasting and public well-fair. These purposes are achieved by guaranteeing the freedom and independence of broadcasting and increasing the sense of public responsibility in broadcasting.”[6] The purpose of the Special Law of Local Broadcasting enacted in 2014 was “to contribute to locality, diversity, and democracy in local broadcasting, and to promote the balanced development of local society.”[7] The consideration on locality in Broadcast Law is stated only once as a small part of fairness and public interest. The Special Law suggests a little more consideration for local broadcasting stations located outside Seoul. Its main considerations are, to establish a ‘Support Plan’ and to organize ‘A Committee’ for local broadcast development. Even though the two major broadcast laws in Korea literally try to support local
stations and to enhance their circumstances, Korean local stations have not developed (see Fig. 1, Fig. 2, and Table 1)[8].

It has been a fact that Korean viewers residing outside Seoul are more likely to listen to and watch those broadcast signals produced in Seoul than in their residing regions. It is because of the long tradition of centralism of Korean political and cultural tradition, and of lack of revenues and supports for local stations that are not able to secure abundant staffs and costs on local content productions. In average, locally produced broadcast programs costs less than 10% compared to those produced in Seoul[9].

[Fig. 1] Total Revenues of Korean Terrestrial Broadcasters (unit: bil. Won)

[Fig. 2] Total Advertising Revenues of Korean Terrestrial Broadcasters (unit: bil. Won)
During the period from 2013 to 2016, total revenue for the terrestrial broadcasting industry did not visibly change, however, total advertising revenues rapidly decreased. It demonstrates that the broadcasters have actively sought alternative revenue resources such as retransmission fees, sponsorships, and diversification in order to compensate for the loss of advertising revenue resulting from the reap of web and mobile counterparts’ advertising sales. Among them, retransmission fees mean certain amounts of payments terrestrial broadcasters collect from pay TV platforms that retransmit terrestrial TV signals. The rate is calculated based on the number of pay TV subscribers. From a total of forty-eight local stations, their revenue accounted for only 18.9% of the total while 4 key nationwide stations had revenues of 81.1% of the total.

In terms of annual revenue share and growth rate, 27 local terrestrial stations share only 13.2%(7.5%+5.7%) of total revenues. Even though total revenues have been shrinking due to recent diversification of advertising media and legal restrictions against terrestrial advertising, those of local broadcasters have reduced faster. It means that the discrepancy of advertising revenues between nationwide and local broadcasters has been increased, and that local advertising markets have been shrinking faster. This fact invites arguments that financial considerations in favor of local broadcasters’ are needed in the current broadcasting laws.

| [Table 1] Revenue Share and Growth Rate of Korean Broadcasters |
|-----------------------------|-----------------|-----------------|-----------------|----------------|
| Broadcasters | Growth rate share (2016) | '15-'16 growth | '15-'16 growth rate | '12-'16 average growth rate |
| KBS (nationwide)(1) | 36.8% | -610 | -4.0% | -0.5% |
| MBC (nationwide)(1) | 20.7% | -140 | -1.7% | 1.4% |
| SBS (nationwide)(1) | 19.4% | 257 | 3.4% | 1.4% |
| EBS (nationwide)(1) | 4.2% | -41 | -2.4% | 2.2% |
| Local MBC(17) | 7.5% | -393 | -11.6% | -4.0% |
| Local Independent Stations(10) | 5.7% | -226 | -9.1% | -3.2% |
| Other(21) | 5.7% | 134 | 6.3% | 7.5% |
| **Total (Terrestrial TV)** | **100%** | **-1,019** | **-2.5%** | **0.3%** |
| **Total (Pay TV Platforms)** | **100%** | **4,450** | **9.4%** | **16.4%** |

The 'Support Plan' and the 'Committee' for local broadcast development proved ineffective according to the data above and many media law scholars have criticized local media laws and policy as follows:

First, the 'Support Plan' in the Special Law provided too small an amount of funding for
local stations to enhance their financial status and production level. Also, the operation of the fund lacks freedom and independence[10]. Second, the *Special Law* has serious flaws in terms of a lack of legal effectiveness because it focuses too much on the role of the insufficient ‘Support Plan’ and a vulnerable ‘Committee’. The amount of annual supports for all the local stations in Korea is reported to be only three billion Korean Won in average that is the same to or less than production costs for a season of a TV drama. Most articles, clauses, and items of the law limit the power and locality of the ‘Committee’, and it can easily be controled and manipulated by government authorities that support centralization of media industries[11][12]. Third, although the *Special Law* proposed an index for evaluating the locality of stations, it considers the value of locality as a small part of mandatory rules within the principle of public interest instead of being a main philosophy of media policy. Some elements used for calculating locality index imposed to local stations are not realistic nor cost-effective[13][14]. Finally, the *Special Law* fails because it consists of convenient ideas and superficial approaches based on a narrow perception and conception that ignores the substantial importance and value of local media by omitting such variables as diverse digital media environments and niche markets in which local media could play an inevitable role for local residents[15][16].

4. Keys to Enhancing the Status of Korean Local Broadcast Media

Based on the exploration of policy issues and the many limitations to legal effectiveness regarding local broadcasting cited herein, several applicable policy alternatives are suggested as follows.

First, most scholars who support the need to revitalize local media argue that the philosophy of locality must be placed at the center of the Korean media policy-making process. In addition to public interest and fairness, locality that can most effectively generate diversity should be main purpose of the policy.

Second, there has been an argument that financial and revenue structures of local broadcasters must be operated rationally. Even though local stations play a critical role in nationwide coverage of key stations’ content and advertisements, the distribution and share of advertising revenue is disproportionate and unfair.

Third, there also have been a lot of criticism that the amount of support for local broadcasters is inconsistent and too small, considering the relative weight and powerfulness of a *Special Law* that has more preemptive enforcement power than other general laws. As
mentioned earlier, the budget allotted for production per hour and operation of local stations is too low compared to those of key Seoul stations. This has resulted in the loss of local audiences and the centralization of national media and economic growth. A realistic and balanced ‘support’ for local stations is now vital.

Finally, the organizing principle and legal status of the ‘Committee’ for local broadcasting development must be reconsidered. The present rules for the Special Law do not guarantee legislative power and protection of locality values for members of the committee. As the members do not have decisive voting rights nor submitting rights for agendas or bills, they are just a reviewing and advisory organization without responsibility for the results. They do not have to demonstrate professionalism or a philosophy of localism or locality according to the law. Therefore, the chair and all the other members must be replaced by new members who are willing to devote themselves to the balanced development of Korean local media outlets.

5. Conclusion

It is a very difficult task to promote the viability of Korean local broadcast media under circumstances in which political, economic, and cultural resources are too centralized. Furthermore, current technological bases of mass media are digitalized and mobilized, and tend to cover nationwide and worldwide areas with audiences outside local or regional areas. Nevertheless, it is a fact that Korean broadcasting authorities have made several attempts to vitalize local broadcasting since 1994 by organizing a series of policy-making committees. As a result, Special Law of Local Broadcasting Development was legislated and put into effect in 2014. Also, the present government won the 2017 presidential election by promising to accomplish a balanced development of the nation. However, these policy efforts have not been successful. A majority of statistical data and literature indicate that there is no evidence that local stations have been enhanced outside the Seoul metropolitan area.

The principle and philosophy of locality must now be considered as a core fundamental idea of policy and legislation in order to preserve Korean local media, and in so doing, the financial and operational problems local stations are facing will be significantly reduced. In terms of balanced development of stations, the policy of personnel and financial inequality between key (nationwide) stations and local stations should be abolished. The first thing to do is to localize the members of the Committee for Local Broadcasting Development. The second thing needed is that the autonomous and independent production and distribution of
programs by local stations must be firmly supported by the authorities.

References


[6] Broadcasting Law

[7] Special Law of Local Broadcasting


