

無法執法與有法放任： 台灣有線電視產業的制度論分析 (1983-2000)*

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台灣有線電視市場的發展是一場資本、國家以及民間社會力量衝突與鬥爭結果。本文從有線電視法立法前、後兩階段，分析國家政策與立法如何回應全球資本的力量與地方民間社會的對抗，在多重政經勢力的折衝下形塑出台灣有線電視市場結構。在前有線電視法時期，國家在國際貿易報復與國內民主化雙重壓力下，承認頻道財產權，卻對已經成形的系統市場強加管制，差異執法的結果是保障國外頻道業者的智慧財產權，但使地方系統經營者陷入派系化與財團化，造成以暴力為後盾的惡性競爭與購併；而在有線電視法頒佈之後，又以落日條款來讓原有系統業者暫時繼續經營，在國家有法而放任的情形下，讓集團企業與地方政治力繼續進行市場垂直與水平併購。國家無法建立財產權制度保障，未能建立產業公平競爭的秩序，反而促成市場寡頭壟斷問題。

關鍵字：有線電視、系統經營者、頻道供應者、制度論

Interference without Law and Nonintervention with Law: The Case of the Taiwanese Cable TV Industry from an Institutional Approach (1983-2000)

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ABSTRACT

The formation of Taiwan's cable TV market is the consequence of conflicts and struggles among capital, state and civil society. From an institutional approach, this paper aims to analyze different stages of state legislation and implementation for the cable TV market. The Taiwanese state plays a role not to protect property but for its legitimacy and interest. There are two stages of state regulation and implementation. At the pre-cable TV stage, the state suppressed local system managers in a move against media deregulation and democracy, but protected international channel providers due to international trade negotiations. The selective implementation caused illegal system managers to be bargained and controlled by local factions, gangs and syndicates. At the cable TV legislation stage, the state let the system managers slide. They are allowed to continue their business until the establishment of a legal cable company in the same area. The interference without law and non-intervention with law resulted in horizontal and vertical mergers and acquisitions in the Taiwanese cable industry.

Key Words: cable TV, system manager, channel provider,
institution approach