

Telecommunications - Taiwan

New Edition of Draft Law on Communications Businesses Announced

December 19 2007

On November 9 2007 the National Communications Commission (NCC) announced several revisions to the original draft of the Law Governing Communications and Broadcasting, which was released on September 10 2007. The NCC also initiated a second round of public comment on November 20 2007 for discussion on the revised draft. The following recommendations have been added to the revised draft as an initial response to public comment collected during the first round of consultation:

- Divide the licensing mechanism into two types: permission for identified communications services subject to the NCC's official announcement, and approval for all services provided by operating networks, fixed line, wireless or satellite, which shall include most of the existing Type I telecommunication businesses, radio, television, and cable TV channels;
- Polish the definitions of 'broadcasting' and 'communications' business;
- Revise the cap on foreign investment in communications and broadcasting business. For the first time, foreign investment in the terrestrial radio and television stations will be allowed up to 20%, contrasting with the present strict prohibition;
- Effect a public consultation procedure before any change is made to the determination of the communications and broadcasting markets for the purposes of monitoring significant market power;
- Clarify the scope and duty of operators with significant market power;
- Seek to share power with the Fair Trade Commission, the competition law authority in *ex-post* regulation on competition matters;
- Extend the obligation of universal service to broadcasting business;
- Grant public broadcasting service direct access to intended frequency spectrum without bidding or auction; and
- Create the norms of frequency right transfer and the secondary market.

The later stage of consultation will soon begin between the NCC and other governmental agencies for issues covering rights of way, use of land, spectrum allocation and market surveillance. The NCC expects that the revised draft will be submitted to the Executive Yuan (the Cabinet) for review by the end of December 2007.

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