

Telecommunications - Taiwan

Congress Amends the Formation of National Communications Commission

February 27 2008

After mutual concessions by the ruling and opposition parties, the Taiwanese Congress (the Legislative *Yuan*) passed the Amendment to Article 4 of the National Communications Commission (NCC) Organization Act on December 20 2007. The amendment, which became effective from January 9 2008, dramatically changes the formation of the NCC and the manner in which commissioners are nominated, and was brought into force in order to avoid further problems arising from the NCC's former unconstitutional status.

The previous Article 4 of the act was declared unconstitutional by the Council of Grand Justices in July 2006 because it allowed the commission to comprise members of political parties in proportion to their representation in Congress. However, the grand justices allowed the commissioners to remain in their posts for a grace period until the legislature amended the NCC Organization Act accordingly, with a deadline of December 31 2008. Nine of the commissioners remaining in the NCC have expressed their appreciation to Congress for breaking a potential legislative deadlock before the commission is forced to close down. Commission Chair Yeong-Chin Su announced in response to a press inquiry that the nine commissioners decided unanimously that they will remain in office until successive commissioners are officially appointed.

The primary content of the new amendment can be summarized as follows:

- New formation of NCC - the amendment has decreased the number of commissioners from 13 to seven. Candidates nominated for commission posts must be experts or professionals with a background in either law, communications, information technology, finance or economics. The seven appointed commissioners will elect among themselves a chair and vice chair of the NCC under the amendment.
- Term of office - commissioners will be nominated for a term up to of four years, which may be extended until successors are appointed. In order to implement a staggered term system, the term of three out of seven members chosen from the first nominations will be two years long.
- Cap on the number of political party members - the number of commissioners who are members of the same political party must not be more than four out of the seven commissioners.
- Nomination process - the commissioners must be nominated by the premier of the Executive *Yuan* (the highest level of the executive branch) and consented to by Congress, subject to review. The nomination process must be initiated at least three months before the term of the commissioners expires. If for any reason new commissioners have not been appointed, the term of existing commissioners may be extended to the day before the inauguration of new commissioners and not be bound by the statutory term.
- Transitional provisions - the new procedure to exercise the powers delegated by Congress will be implemented by the legislature newly elected in January 2008.

It is anticipated that the Executive *Yuan* will process the nominations in March 2008.

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