

Telecommunications - Taiwan

Chunghwa Telecom opposes amendments to the Telecommunications Act

Contributed by **Shay & Partners**

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On May 18 2012 the National Communications Commission (NCC) conducted its third public hearing on the proposed amendments to the Telecommunications Act. These draft amendments represent the biggest changes to the act since 2002, when the dominant market players regulation was introduced.

The draft amendments introduce a new Chapter III, which has been added to control the provision of audiovisual services via telecommunications networks through licensing. The amendments also intend to compel the functional separation of Chunghwa Telecom so that its last-mile connection is released and can be shared by all telecommunications operators. In addition, the retail price control for telecommunications tariffs will be relaxed and wholesale price control will be established. The NCC also plans to require telecommunications operators to cooperate with reviewing internet content and to remove content that violates laws and regulations or appropriate moral standards.

In the area of tariff control, the NCC has stipulated in the draft amendments that, in future, telecommunications and other relevant intermediary services (eg, circuit charges, interconnection fees and internet protocol peering charges) provided to smaller telecommunications operators by dominant market players in the Type I telecommunications market will be subject to the NCC's control in the form of prior approval.

The focus of the NCC's tariff control has shifted from Type I telecommunications enterprises to dominant market players. In the draft, the NCC is proposing to redefine the term 'dominant market players'. Telecommunications tariff control will be shifted from the current X value, which focuses on the reduction of retail prices, to the control of wholesale prices for intermediary products. If dominant market players are involved in predatory pricing due to bundling, the NCC will proactively intervene.

In order to promote effective competition in the fixed-line market, the NCC will be given a mandate under the act to compel Chunghwa Telecom to separate some of its functions, so that its network access arm becomes an independent business unit providing rental services to all telecommunications operators.⁽¹⁾

Both Chunghwa Telecom's management and labour union attended the public hearing and strongly opposed the functional separation, which they believe to be tantamount to a structural break-up of the company. They have asserted that instead of allowing other competitors to acquire the last-mile connection (for which Chunghwa Telecom holds a monopoly), the government should look at purchasing and nationalising Chunghwa Telecom's networks before providing fair rental services to all telecommunications operators.

In addition to the functional separation of Chunghwa Telecom, the NCC has also:

- proposed amendments to treat the piping and trench controlled by Chunghwa Telecom as bottleneck facilities; and
- requested Chunghwa Telecom to provide shared piping services to the other Type I telecommunications and cable television operators at cost.

Chunghwa Telecom's major competitors, including Taiwan Mobile, FarEasTone and cable television operators, have stated that they would welcome the amendments directed at Chunghwa Telecom, and have urged the NCC to provide details of when the amendments are likely come into effect.

The NCC organised two public hearings regarding the draft amendments to the act in 2011, but has yet to make any substantive changes. According to the NCC's legislation

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plan, the draft amendments will be submitted to the Legislative Yuan for deliberation in September 2012.

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Endnotes

(1) The NCC took the example of BT Openreach in the United Kingdom into consideration in this regard.

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