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## **TAIWAN TELECOM REGULATORY ISSUES**

### ***Introduction***

As part of joining the World Trade Organization (WTO), Taiwan became a signatory to the WTO Agreement on Basic Telecommunications Services. Under that agreement, Taiwan committed to liberalizing its telecommunications market and implementing the regulatory principles contained in the agreement's Reference Paper. Taiwan has made important progress in fulfilling its commitments, but several challenges remain.

In 2000, Taiwan offered an unlimited number of integrated fixed-line service licenses (Type I) to provide bundled fixed-line services (local, domestic and international long distance). Successful bidders were required to have minimum paid-in capital of NT\$40 billion (US\$1.2 billion), and had to complete construction of a local fixed network with a capacity of no less than 150,000 numbers, ports, or a combination of both before launching service. In addition, the successful licensees are required to roll out a local network with system capacity of not less than one million subscribers' lines/ports within six years.

Three integrated fixed line licenses have been awarded to Eastern Broadband Telecom ("EBT"), Taiwan Fixed Network Telecom ("TFN") and New Century Infocomm ("NCIC"). All three new entrants have now launched services. However, contrary to the spirit of liberalization, all three operators have and continue to face a number of problems that severely hamper their ability to compete effectively.

Aside from obligations extended to the licensees, another challenge arises in the area of regulatory reform. Notably, Taiwan's Ministry of Transportation and Communications (MOTC) recently announced that the Executive Yuan has decided to postpone indefinitely the establishment of an independent telecommunications regulatory agency, the National Communications Committee.

Under Taiwan's present regulatory structure, the Directorate General of Telecommunications (DGT), which reports to the MOTC, oversees the telecommunications industry. Given the fact that the MOTC also maintains the Taiwanese government's ownership interest in Chunghwa Telecom (CHT), the national carrier, concerns arise about DGT's ability to administer the regulatory environment in a balanced and competitively neutral manner. The telecommunications regulatory body must be fully independent from any telecommunications operator, and must be empowered by the government to ensure fair and balanced oversight of the telecommunications industry.

Several improvements are required in the area of regulatory enforcement, particularly in the areas of interconnection and access rules, and those issues are described briefly below.

### ***Points of Interconnection (POI)***

The number and location of POI gateway exchanges is a critical factor in establishing efficient and sustainable competition. Dominant operators often use the number and location of POIs as a means of thwarting competitive entry by significantly increasing the initial entry cost and the ongoing cost associated with the provision of interconnection services. In Taiwan, all new entrants must interconnect at 49 CHT designated POIs. This has led to considerable delays for the new entrants, as testing had to be undertaken at each POI. Entrants could only launch their services with a few POIs and, as a result, service launches have been delayed.



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### Availability of Co-location Space

CHT claims it has no space available in its exchange buildings to co-locate entrants' equipment, so all three new entrants have to lease all their interconnection links from CHT for a minimum of three year leases and on retail terms with less than a 7% discount (whereas some customers purportedly receive discounts of up to 30% from CHT). It has taken CHT over six months to install all the leased lines for the POI. With the minimum three-year lease terms, there is no opportunity to reduce these costs as entrants roll out their own network to replace these links.

### Network Rollout Obstacles

Rollout of networks is being delayed and costs incurred by the uncoordinated approvals required for fixed network construction. Licensees have to deal with national, state, and local planning and environmental laws. A coordinated approach is required.

## **Essential Actions for Regulatory Reform**

The US-Taiwan Business Council recommends that the following actions be implemented immediately to ensure full compliance with Taiwan's commitment to the WTO Agreement on Basic Telecommunication Services, and, moreover, to create a telecommunications environment that will attract and sustain robust competition.

### Create an Independent Regulator

The Directorate General of Telecommunications (DGT) reports into the MOTC, which is also responsible for the Taiwanese government's shareholding in Chunghwa Telecom ("CHT"). Given the lack of separation of DGT from the policy and political process, together with the government's decision to postpone the privatization of CHT, there is concern that the DGT is not acting as an independent regulator that uses its powers to implement the WTO commitment.

### Establish Transparency and Certainty in the Regulatory Process

Despite decisions having significant implications to the industry, the DGT rarely consults with the industry on policy or implementation matters. Licensees need regulatory certainty for investment decisions.

### DGT Should Exercise Its Powers

For example, the interconnection framework provides for a 90-day negotiation period after which the DGT may determine the dispute and issue binding decisions. Without a DGT established negotiation timetable, discussions are conducted on an unstructured basis, which has resulted in no interconnection agreements being reached. In addition, DGT's regulations must provide a level playing field and new licensees and entrants should have the same required commitments.

### Liberalize Foreign Ownership Restrictions Further

Taiwan's efforts to liberalize foreign ownership restrictions in the telecommunications sector, including the recent amendments to the Telecommunications Law that allows up to 49% direct ownership in Type I telecommunications licensees, are very much appreciated. However, we encourage further liberalization to permit full participation of foreign entities in Taiwan's telecommunications sector.



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*Eliminate Backhaul Restrictions*

Existing limitations prohibit carriers from landing submarine cables unless they meet the burdensome requirements of an International Submarine Circuit Leasing License, or partner with an existing Type I licensee to obtain backhaul facilities. Under the terms of the International Submarine Circuit Leasing License, a licensee may not provide its own backhaul facilities, unless it is unable to reach agreement with an existing licensee over a three month period. We encourage Taiwan to eliminate this burdensome obligation.

*Clarify and Liberalize Rules Governing Value-Added Services*

Clarify that value-added service providers can provide services over their own facilities-based networks, and streamline licensing requirements.

***Conclusion***

The US Taiwan Business Council recognizes the important progress that Taiwan has made in improving market access and competition, and in improving the regulatory environment in telecommunications. Recognizing the important challenges that lie ahead for further reforms, the Council will continue to support Taiwan as it addresses those key challenges.