

Taiwan Telecommunications Liberalization--Agreed Minute

AGREED MINUTE

From July 15-19, 1996 the Taipei Economic and Cultural Representative Office (TECRO) and the American Institute in Taiwan (AIT) conducted constructive and friendly discussions on the subject of the liberalization of Taiwan's telecommunications market. TECRO stressed that telecom liberalization had become the established policy and that the three telecommunications laws went into force in February of this year. TECRO noted that tenders for private companies to compete in four new wireless services for Taiwan had already been solicited. TECRO stressed that the bidding requirements were established with reference to experience and practice in foreign markets and the principles of the WTO's negotiations in the Group on Basic Telecommunications.

AIT noted that the passage of the telecommunications laws and the liberalization of the telecom market in Taiwan will encourage U.S. companies to invest in Taiwan and make it a more attractive location for U.S. companies to locate regional headquarters. AIT had several questions about the implementation of the telecommunications laws and about the regulations governing the newly opened wireless markets in Taiwan. AIT also had certain concerns about the wireless regulations that AIT believed discouraged foreign investment and cooperation between U.S. and Taiwan companies in the telecom sector.

AIT believes that investment promotes competition, which in turn creates jobs and brings better services and lower prices to consumers. As such, AIT believes that strict limits on foreign investment in telecommunications are economically harmful and inconsistent with commitments made by other APEC economies in the on-going WTO talks on telecom services.

Representatives of the Directorate General of Telecommunications (DGT) stated that the telecommunication regulatory function and telecommunications service provider function have been entirely separated since July 1, 1996. DGT representatives stressed that DGT will serve as an independent and neutral regulator of Taiwan's telecom market, will strive to promote competition, and will treat all competitors in a non-discriminatory and transparent fashion.

AIT agreed with TECRO that the independence of DGT was of great importance and expressed its support for DGT's efforts to establish itself as a strong, independent and impartial regulator. AIT also expressed its support for the efforts being made by DGT to establish a competitive, transparent and fair wireless market in Taiwan.

In response to questions from AIT, TECRO clarified the following aspects of its existing policies. And, in order to promote competition, create jobs, offer improved services at lower prices to business and consumers, and further Taiwan's goal of becoming an Asia-Pacific Regional Operations Center in Taiwan, TECRO and AIT understood:

1. Given the fact that the wireless sector in Taiwan will have multiple competing operators and demand elasticity and price sensitivity among consumers are likely to be high, DGT understands a cap on profits is not necessary to protect consumers in a competitive market and will initiate the procedure to remove the profit cap.

However, the Telecommunications Act states that it is necessary to maintain a formula for tariff schedules. In order to reflect the changing and competitive market environment and the statutory requirements, the DGT has already begun drafting a new formula for tariff schedules for competitive markets.

2. The DGT confirmed its existing policy that the terms and conditions of interconnection agreements between wireless operators and Chunghwa Telecom Co. (CHT) must be consistent with the principles of cost-based pricing, transparency, non-discrimination among operators, and unbundling of CHT's network elements.

3. In implementing the principles of transparency and non-discrimination mentioned in paragraph 2 above, the DGT confirmed its existing policy that the terms of any interconnection agreement between a CHT-owned wireless operator and CHT's fixed network would be made publicly available and that all wireless operators would be able to interconnect with CHTs fixed network on the same terms and conditions made available to a CHT-owned wireless operator.

4. DGT confirmed that it would not permit any cross-subsidization from CHT's fixed-line operations to CHTs wireless operations. DGT noted that its existing policy requires CHT to keep separate accounts for its monopoly fixed-line operations and its wireless operations.

5. DGT will relax the existing debt/equity ratio for bidders for wireless services.

6. DGT confirmed its existing policy that the bid review boards will not restrict a bidder from obtaining all three regional licenses available in any one particular service so long as that bidder is the most qualified bidder for each region in question, subject to DGT's existing policy that a winner of an island-wide license in a particular service is not eligible to win a regional license in that same service.

7. DGT confirmed its existing policy that it will remove any entities using spectrum without legal authorization. DGT noted that any interested bidder may examine DGT's detailed chart of spectrum occupied by legal users in the service band to be licensed. DGT stressed that current legal users of such spectrum only occupied limited bandwidth in sparsely populated areas and such use will not have material impact on successful bidders' ability to provide services. Current legal users have reached an agreement with MOTC to vacate the spectrum within five years.

8. In response to questions from AIT, TECRO clarified that the 20% limit on foreign participation is regulated by the Telecommunications Act and that an interagency meeting was held in early June by the Council for Economic Planning and Development. Relevant conclusions are being circulated to the related agencies for review at present. No definite decision has been reached yet.

The undersigned have signed this Minute on the 19th of July, 1996, in duplicate in the English and Chinese language, each being equally authentic.

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