

**EIGHTH REPORT TO THE LEADERS ON THE  
U.S.-JAPAN REGULATORY REFORM AND COMPETITION POLICY INITIATIVE  
July 6, 2009**

The U.S.-Japan Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative) serves as a key bilateral forum for both Governments to promote economic growth through regulatory reform.

The importance of new measures to stimulate growth, open new markets, and improve the business environment has been highlighted in recent months with the sudden downturn in the global economy. Restoration of stable economic growth remains a high priority, and both Governments therefore re-affirm the contributions of the work under this Initiative to achieving this goal as well as helping expand and deepen the U.S.-Japan economic and trade relationship.

Engagement by the Governments of the United States and Japan under this Initiative is two-way, and was launched in the fall of 2008 after an exchange of recommendations by both Governments in October.

Four Working Groups (Cross-sectoral, Medical Devices and Pharmaceuticals, Telecommunications, and Information Technologies) met to address reform in key sectors and areas such as intellectual property, distribution and customs procedures, competition policy, trade and investment-related measures, government procurement, consular affairs, medical devices and pharmaceuticals, commercial law, privatization of public entities, and telecommunications/communications. A High-Level Officials Group also met in May 2009 to advance progress on a range of issues raised under this Initiative.

Following the Working Group and High-Level meetings, this Report to the Leaders was prepared to record progress and detail measures to be taken in the future that respond to each Government's recommendations. This is the eighth annual Report under this Initiative.

In addition to bilateral issues, the Report highlights continuing work by both Governments to strengthen intellectual property rights protection and enforcement in the region and around the world. The two Governments affirm their determination to continue to increase this cooperation in bilateral, regional, and multilateral fora.

Both the Governments of the United States and Japan reaffirm their determination to further promote regulatory reform and, upon the request of either Government, will meet at mutually convenient times to address the measures contained in this Report.

**REGULATORY REFORM AND OTHER MEASURES BY**  
**THE GOVERNMENT OF JAPAN**

**I. COMMUNICATIONS**

**A. Promotion of Competition**

1. In February 2009, with a view towards ensuring an environment for fair competition in the telecommunications market, the Ministry of Internal Affairs and Communications (MIC) consulted the Information and Communications Council requesting it to develop recommendations on interconnection rules in response to changes in the telecommunications market environment. Specifically, MIC asked the Council to focus on four main areas:
  - a. ensuring an environment for fair competition in the mobile market including evaluation of the effectiveness of the Category II Designated Telecommunications Facilities System (specific regulation for certain mobile networks);
  - b. ensuring an environment for fair competition in the fixed-line broadband market;
  - c. ensuring an environment for fair competition that promotes new market entrants in the telecommunications platform and content distribution markets including opening up telecommunications platform functions and strengthening dispute settlement functions; and
  - d. interconnection rules in the context of fixed-mobile convergence including consideration of a Bill & Keep mechanism.

**B. Fixed Interconnection**

1. In July 2008, MIC revised ordinances to designate Next-Generation Networks of NTT East and West as Category I Designated Telecommunications Facilities, the consequence of which is an obligation to ensure cost-oriented and non-discriminatory interconnection with competing carriers. In November 2008, based on the revision to the ordinances, MIC authorized the interconnection tariffs of NTT East and West, including network information such as interface conditions necessary for interconnection to Next-Generation Networks of NTT East and West. In March 2009, based on the revision to the ordinance, MIC authorized Next Generation Networks interconnection rates of NTT East and West for FY2009. As a result, for the termination of VoIP on NTT East's network (Hikari Denwa), the interconnection rates was set at 5.69 yen per 3 minutes, and for the termination of VoIP on NTT West's network (Hikari Denwa), the interconnection rates was set at 6.29 yen per 3 minutes.

2. In July 2008, following the launch of the Next-Generation Network services of NTT East and West, MIC revised the public notice to make it obligatory to disclose information on facilities exempted from the Scheme for Providing Network Functions such as facilities for Next-Generation Network of NTT East and West. Accordingly, information on such facilities, including facilities for Next-Generation Network of NTT East and West, must be disclosed, in principle, 90 days prior to the scheduled service launch of the additional functions, so as to enable competitive carriers to consider, in advance, offering services using the additional functions.
- C. **Mobile Interconnection:** The interconnection rate of NTT DOCOMO has been reduced over the last 10 years, and as a result, this rate has fallen to the low end of rates among developed countries using the Calling Party Pays system. In March 2009, MIC was notified that the average interconnection rate between the rate within the same NTT DOCOMO service area and the rate for a subscriber located in a distant NTT DOCOMO service area, was revised to 9.8 yen per minute, a decrease of 11 percent compared to the previous fiscal year.
- D. **Promotion of Advanced Technologies and Services**
1. In order to reallocate specific radio spectrum smoothly and steadily based on the results of surveys on actual radio spectrum usage, MIC developed the “Action Plan for Radio Spectrum Reallocation” in FY2004, and has since revised it annually. In November 2008, MIC announced the revised “Action Plan for Radio Spectrum Reallocation” based on the latest results of survey on actual radio spectrum usage. The revised “Action Plan” includes specific measures, such as to study the efficient use of spectrum to be vacated in the transition to digital TV broadcasting, for the purpose of telecommunications services from July 25, 2012, on the basis of progress in radio spectrum reallocation in the 800/900MHz band, and taking into consideration demand and technological trends of mobile phone systems.
  2. In December 2008, the Information and Communications Council reported Technical Requirements for the 3.9-generation mobile communications systems reflecting efficient use of frequencies and preventing interference. In April 2009, MIC enacted license policy and other regulations for introduction of 3.9-generation mobile communications systems. MIC received applications submitted by EMOBILE Ltd., NTT DOCOMO, INC., SOFTBANK MOBILE Corp. and KDDI Corporation / Okinawa Cellular Telephone Company. In June 2009, MIC approved all four establishment plans.
  3. In June 2009, the Broadcasting System Committee of the Information and Communications Technology subcommittee of the Information and Communications Council, examining broadcasting systems appropriate for portions of VHF band, released for public comment the draft report on technical

requirements for multimedia broadcasting system for mobile terminals.

- E. **Multilateral Affairs:** The Government of Japan and the Government of the United States will continue to participate in the discussion at the ITU on the issue of network externality premium, with a view to ensuring consistency with other international agreements.

## II. INFORMATION TECHNOLOGIES

### A. Health Information Technology

1. The New Grand Design (Grand Design for the Use of Information Technologies in the Medical Services, Healthcare, Nursing and Social Welfare) sets out policies and plans for a five year period, considering the future vision of enhanced IT utilization. The Ministry of Health, Labor and Welfare (MHLW) will continue to make its best efforts to ensure technology neutrality and interoperability in health IT.
2. MHLW has established reimbursements, concerning telemedicine, for remote diagnostic imaging technologies. MHLW will continue to consider reimbursement systems for the use of IT in the medical field, if there are technologies that become candidates for health insurance applicability, upon inspection of data based on scientific grounds concerning the efficacy and safety of the technology.
3. The United States initiated the Integrating the Healthcare Enterprise (IHE) approach that promotes the integration of systems with components from different vendors by ensuring interoperability through the combination of international standards. MHLW has supported this approach since FY2007.

The Ministry of Economy, Trade and Industry (METI) has implemented, a three-year plan from FY2006 to FY2008, with projects to ensure interoperability between hospitals in Nagoya for stroke patients, and in Iwate, Kagawa, Tokyo, and Chiba for perinatal care. Furthermore, as a three-year plan beginning in FY2008, three Ministries, the Ministry of Internal Affairs and Communications (MIC), MHLW, and METI, are implementing the Personal Health Record (PHR) Project to facilitate the collection and storage of lifetime personal health information aimed towards effective utilization for health promotion. Standardization is an important issue in all of these projects. In each project, METI is promoting standardization in conjunction with the International Standards Organization, and is moving the projects forward so that they are fully compliant with international standards. METI will post the reports of the projects on its website (in Japanese).

4. The Government of Japan is making various efforts to provide the public with information about government supported projects by posting such information on

because they permit issuance of a registered form bond without information or tax reporting to the IRS. Consequently, the United States government removed the FTR rules for bonds issued after 2006, with a transition period for certain bonds issued during 2007 and 2008 with a stated maturity of not more than 10 years from the date of issuance. The transition period has not been extended.

## **XV. TELECOMMUNICATIONS**

**A. Entry Requirement in the Submission Form for the Importation of Radio Frequency Devices into the United States:** The Federal Communications Commission (FCC) is in the process of reviewing Form 740, a form that must accompany certain radio frequency devices imported into the United States. The FCC has received comments from various interested parties, including from Japan, and plans to make changes to this form, taking such comments into account.

### **B. Procedures for Export Licenses, Approval of Technical Assistance Agreement and Other Measures Concerning Commercial Satellites**

1. On January 22, 2008, an Export Control Directive was issued that instituted a set of reforms designed to expedite and improve the way that the Government of the United States licenses the export of defense equipment, services and technical data. The reforms included committing additional funding and resources to the adjudication of export control licenses, and new guidelines that require a decision by the Government of the United States on defense trade export license applications within 60 days, absent a strong reason for additional time.
2. The Directive has resulted in significant improvements in the manner in which the Department of State adjudicates export license and technical assistance agreement (TAA) applications. Since February 2008, average processing times for export license applications have held steady at an average of 16 days, an improvement of about 50 percent over average processing times during the prior year. Work continues on other technological and procedural upgrades to the licensing process.
3. All changes to export control regulations are posted in the Federal Register; the most significant of these changes are opened to public comment.
4. The Department of State hosts a website, [www.pmdtc.state.gov](http://www.pmdtc.state.gov), where interested parties can find up-to-date information on average processing times, recent regulatory changes, and a variety of other issues associated with our operations.

### **C. Competition in the Navigation Devices Market for Cable TV Services**

1. The Government of the United States will continue a dialogue with the Government of Japan on how the FCC enforces Section 629 of the Telecommunications Act with a view to ensuring choice in the market for navigation devices (set-top boxes). The Commission implemented this directive

starting in 1998 through the adoption of the “integration ban,” which established a date after which cable operators no longer may place into service new navigation devices (*e.g.*, set-top boxes) that perform both conditional access and other functions in a single integrated device; and a “Plug and Play Order,” established requirements for unidirectional digital cable product in 2003.

2. In June 2007, the FCC initiated a rulemaking to establish reasonable technical requirements to facilitate a competitive market for the supply of interactive navigation devices. As of May 2009, based on results of negotiations between the cable and consumer electronics industry, 18 major IT and consumer electronics companies have reached agreement on technical requirements for bidirectional compatibility in navigation devices.
3. Given these developments, the FCC has not intervened to impose technical requirements, but consistent with Section 629, it will continue to monitor developments in the market to ensure that a competitive market for navigation devices develops.

**D. Policies Concerning Establishment of Advanced Information Communication Infrastructure**

1. On February 17, 2009, the U.S. Congress passed the American Recovery and Reinvestment Act, which included over \$7 billion for the promotion of broadband services, including establishment of National Telecommunications and Information Agency’s (NTIA) \$4.7 billion Broadband Technology Opportunity program (BTOP). The purposes of the BTOP include accelerating broadband deployment in unserved and underserved areas and ensuring that strategic institutions that are likely to create jobs or provide significant public benefits have broadband connections. NTIA anticipates that the first wave of awards under its program will be made by fall 2009.
2. The Conference Report on the Recovery Act states *inter alia* that NTIA should consult with the FCC on defining the terms “unserved area,” “underserved area,” and “broadband.” The Recovery Act also requires that NTIA shall, in coordination with the FCC, publish non-discrimination and network interconnection obligations that shall be contractual conditions of grant awards, including, at a minimum, adherence to the principles contained in the FCC’s broadband policy statement (FCC 05-15, adopted August 5, 2005).
3. On March 12, 2009, NTIA issued a Notice of Inquiry (NOI), soliciting comments on various aspects of the BTOP program. Over 1,600 written comments have been received to date. These comments will be taken into consideration in drafting a Notice of Funds Availability (rules describing how to apply for funds), which is expected to be issued during the summer of 2009.

4. On April 8, 2009, the FCC adopted a Notice of Inquiry that began a proceeding to create that national broadband plan, to provide a roadmap toward achieving the goal of ensuring that all Americans reap the benefits of broadband. The FCC must deliver the plan to Congress by Feb. 17, 2010. The Recovery Act requires the plan to explore several key elements of broadband deployment and use, and the FCC now seeks comment on these elements, including:
  - a. The most effective and efficient ways to ensure broadband access for all Americans.
  - b. Strategies for achieving affordability and maximum utilization of broadband infrastructure and services.
  - c. Evaluation of the status of broadband deployment, including the progress of related grant programs.
  - d. How to use broadband to advance consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation, and economic growth, and other national purposes.
- E. **Network Neutrality:** In August 2008, FCC adopted an Order requiring Comcast to end discriminatory network management practices, finding that Comcast's management of its broadband Internet networks contravened federal policies that protect the open nature of the Internet.
- F. **Multilateral Affairs:** The Government of the United States and the Government of Japan will continue to participate in the discussion at the ITU on the issue of network externality premium, with a view to ensuring consistency with other international agreements.
- G. **Inter-carrier Compensation:** Following adoption of the CALLS Order in May 2000 addressing inter-state access charges, the Government of the United States has, since 2005, been considering new rules for various forms of intercarrier compensation. The Government of the United States recognizes the complexity inherent in maintaining different kinds of access charges: reciprocal compensation, intra-state access charge and inter-state access charges, and is working towards establishing a unified intercarrier compensation regime with a view to rationalizing multiple charging mechanisms.
- H. **Universal Service:** In November 2008, FCC issued the Notice of Proposed Rulemaking (NPRM) seeking comment on Comprehensive Universal Service Reform, with publishing Draft Order, but it has not been adopted. In April 2009, FCC adopted the Notice of Inquiry (NOI) proceeding to create the "National Broadband Plan" including the ways for the Universal Service Programs to address broadband deployment. In this Inquiry, initial comments and reply comments are expected to be received by mid-July 2009.