

# ISSUES AND PRIORITIES IN TELECOMMUNICATIONS REFORM IN JAPAN

## *EUROPEAN BUSINESS COMMUNITY (EBC) POSITION PAPER*

March 2003

### **1. Introduction**

This paper identifies the current key issues and priorities in Japanese telecommunications law reform. It is structured in two parts. The first part identifies the overall barriers to the development of effective competition in the Japanese telecommunications market. These cover:

- Lack of regulatory constraints on NTT dominance, an immediate example being the unjustified increases in interconnection charges currently under consideration by the Soumusho;
- Over-regulation of competitors, for example in regard to tariff filing requirements;
- Regulatory approach not aligned with competition principles; and
- The lack of transparency, accountability, predictability and independence of the regulatory process.

The second part identifies the specific issues faced by European operators at the present time. These are prioritised for action by the European Union: (a) immediately (over the next three months); (b) in the short term (during the current calendar year); and (c) in the medium term (over the next 12-24 months). The paper concludes by summarising these issues into an action plan that the EBC Telecommunications Committee recommends to the European Commission (EC), as a continuation of the EC's active involvement to date, to address these issues with the Japanese Government in a manner that best promotes the interests of European corporations in Japan.

### **2. Key Barriers to Competition**

There are four key barriers to effective competition in Japanese telecommunications markets. Unless these problems are pursued aggressively by the European Union, and tackled effectively by the Japanese Government, a level playing field will never develop in Japan and European corporations will continue to operate at a severe disadvantage. The four key barriers are:

- **Dominance of NTT** – Effective competition requires rigorous Government action to control the former monopoly fixed line operator, both in markets where it has dominance (e.g. local access), and in markets where it can benefit from dominance in related markets (e.g. NTT-Communications can benefit from NTT East and NTT West’s local access dominance). NTT’s dominance, therefore, is all pervasive throughout all its group companies, and enables it to strangle the development of competition. At present, there are no effective regulatory constraints on NTT, which continues to enjoy all the benefits of dominance flowing from its former monopoly position. Strong sector-specific regulation of the fixed line market targeted at NTT is necessary to encourage the development of competition and prevent NTT abusing its dominance, and assurance that appropriate constraints are being effectively applied.
- **Over-regulation of competitors** – Under the existing Telecommunications Business Law (TBL), Japan is the only country in the world where competitors are subject to many of the same regulatory controls as the incumbent. The obligation to price on tariff is a good example. This means that competitors can only charge prices that are set out in a schedule of charges filed with the regulator. This obligation is not only administratively burdensome but, by restricting the ability to tailor deals for particular customers, “straightjackets” pricing by competitors and unreasonably restrains their ability to attack the incumbent’s customer base and prices. Most overseas regimes only apply this obligation to the incumbent to stop it from price discriminating in a way that is damaging to competition. When this obligation is applied to competitors, it locks in the incumbent’s dominant customer base, and prevents the development of price competition.
- **Regulatory approach not aligned with competition principles** – In most other countries, competitors are free to develop their businesses subject only to the constraints of general competition law. In Japan, however, competitors can do very little without first consulting and obtaining the approval of the regulator. There is a failure to apply competition principles in the construction and application of the approval process. This degree of “micro-management” places a real fetter on the market mechanism. European experience demonstrates that intrusive regulatory intervention of this nature distorts the market, deters innovation and investment, dampens competition, and harms consumer welfare. There is an urgent need in Japan for a less interventionist and more competition driven approach to regulation to produce effective and sustainable market driven outcomes.
- **Transparency, accountability, predicability and independence of the regulatory process** – These are issues of continuing concern in Japan. The Japanese regulatory process does not meet the three key principles of EU directives: openness, fairness and transparency. There are three key problems:

- ***Lack of an independent regulator*** – The Soumusho faces conflicts as both the promoter of the telecommunications industry (including NTT), and the competition regulator within the industry. In most developed countries, these roles are separated into a government department that promotes the industry and sets general policy goals, and the industry regulator that implements policy and ensures fair competition within the industry. In the case of Japan, there is also a clear conflict of interest between the Government’s role as a major investor in NTT and its role as the regulator. This conflict of interest can deter investor and undermine confidence in the independence of the regulatory process. The NTT protectionism evident in the recent decision on fixed line interconnection charges (discussed below) demonstrates this problem. There should be clear separation of ownership and regulatory function. This was the fundamental starting point for Europe when it commenced liberalisation back in 1987.
  
- ***Need to seek administrative consent*** – The arbitrary and vague nature of legislation and regulations requires operators to constantly seek guidance from the regulator on the meaning of particular rules in particular situations. This institutionalises the “micro-management” problem. Regulatory rules need to be clearly stated in advance in the interests of certainty, fairness and predicability. Non-dominant operators, in particular, need to be given the freedom to operate and develop their businesses with a minimum of regulatory supervision or control. The outcomes of the regulatory process need to be economically rigorous.
  
- ***Inadequacies in the public consultation process*** – The Government requires Ministries to publicly consult on changes in policy but the practices of Soumusho strip the consultation process of any real meaning. Most policy decisions are made behind closed doors, which tend to exclude foreign operators, before consultation documents are issued for comment. As a result, the consultation process is merely “window dressing”, and has little or no effect on policy decisions. Reflecting the emptiness of the procedure, consultations are forced through in unreasonably short timeframes, without regard to the problems of translation faced by foreign operators. These problems prevent meaningful participation of foreign operators in the decision-making process.

### 3. Prioritised Issues

These general barriers to entry give rise to a number of specific problems for European operators in the Japanese market. There is an urgent need to tackle these problems in order to create an open and fair market in which all operators can compete on a level playing field. This section of the paper identifies the issues that need to be tackled by the European Union: (a) immediately

(during the next three months); (b) in the short term (during the current calendar year); and (c) in the medium term (over the next 12-24 months).

### 3.1 Immediate

#### ***Fixed Line Interconnection***

Urgent action needs to be taken on the critical issue of fixed line interconnection.

Current Japanese fixed line interconnection prices are unacceptably high by world standards. This distorts competition, keeps end-user prices artificially high, and imposes a substantial revenue drain on competitors.

The revised Long Run Incremental Cost (LRIC) model developed by Soumusho will only make this situation worse by further increasing the cost of interconnection. Under current proposals, local interconnection will *decrease* by 3% (to ¥4.37 per 3 minutes), but single tandem interconnection will *increase* by 12% (to ¥5.37 per 3 minutes), resulting in an overall *increase* in interconnection costs – with the extent of the increase determined by a particular operator’s ratio of local and tandem interconnection. For Vodafone, for example, this means an increase of ¥6 billion in out payments to NTT. Other carriers will be similarly and relatively affected.

This is a perverse result given that:

- the use of a proper LRIC model should produce substantial price decreases – because the LRIC model should be constructed based on an efficient network without the legacies embedded in NTT’s existing network and, consequently, the existing interconnection prices;
- it will force competing operators to absorb the price increase, reducing already slim margins, or pass them on to consumers in the form of higher retail prices and incoming settlement rates for international traffic, undermining their competitive position in the current deflationary environment. This creates the misleading impression that competition is resulting in increased prices when, in fact, price increases are due to the inappropriate calculation of interconnection charges; and
- it will force operators to incur the additional costs of rolling out infrastructure to interconnect at the local level in order to obtain the benefit of the lower price – even though single tandem (ZC) interconnection may be more efficient. Such expense is not viable in the current environment and will result in a wasteful duplication of facilities.

Interconnection benchmarking performed by European operators, including Vodafone and Cable & Wireless, demonstrates that the revised charges are up to 50% above comparable rates, even allowing for local factors in Japan (such as higher construction costs) affecting the interconnection price.

These unjustifiably high prices result from a number of defects in the revised LRIC model. The key defects are:

- reliance on the incumbent's existing inefficient network and costs – rather than those of a forward-looking efficient operator;
- failure to optimise all elements of the model (including using lowest cost technology and dimensioning the model to process traffic volumes in the most efficient manner) – contrary to the principle of forward-looking efficiency;
- failure to share common network costs over the expanding demand for broadband access, whilst instead loading these costs fully onto a declining volume of voice traffic; and
- failure to exclude non-traffic sensitive (NTS) costs – contrary to the principle of cost causality and the accepted practice of other regulators.

Although all of these defects have a cumulative impact on price, the failure to exclude NTS costs has the single greatest impact, by almost doubling the cost of interconnection. Exclusion of NTS costs would, on Soumusho's own calculations, lower prices to within acceptable levels.

The LRIC review process demonstrates how, without an independent regulator, the regulatory process is subject to politicisation and capture by NTT. However, this protectionism only serves to insulate NTT from natural competitive pressures to improve its efficiency, which it must face for effective competition to develop in the Japanese market and for Japanese consumers to benefit from competition.

It is critical that the European Union intensify pressure on the Japanese Government to lower interconnection charges to acceptable benchmark levels, by excluding NTS costs in accordance with economically robust requirements, and to accept nothing less than a cap on interconnection charges at their current levels. Given the well recognised significance of interconnection to the competitive landscape, WTO action may be appropriate in the event that a satisfactory outcome is not achieved, in order to protect and advance the interests of European operators in Japan.

### **3.2 Short Term**

#### ***Universal Service***

The revised LRIC model is being used to determine the cost to NTT of providing Universal Service in Japan. The serious flaws in the model have the effect of grossly overstating any cost of Universal Service provision by NTT.

The revised model produces estimates of a net loss to NTT of ¥10-30 billion per annum. This would result in a substantial tax on competition if imposed on the industry, and a substantial windfall to NTT. International best practice approaches to universal service suggest that a net loss is not likely to exist in relation the provision of telecommunications services across compact countries such as Japan, and most European countries.

The key problems with the USO model are:

- failure to adopt a rigorous methodology that identifies genuine loss making areas (taking account of both incoming and outgoing call revenues, and only avoidable costs). Instead, the whole country is treated as a net loss area and NTT is able to “double dip” in profitable service areas, extracting both profit and universal fund contributions;
- failure to introduce contestability into the system (including from mobile operators) – so that NTT remains “locked in” as the universal service provider; and
- failure to take account of the “intangible benefits” to NTT of being the universal service provider – which means USO contributions to NTT are unduly high when the benefits to NTT of being the universal service provider are considered and quantified. These benefits include such things as the geographical ubiquity of NTT providing the benefit that consumers moving within Japan will always be aware of NTT as a potential supplier, whilst local competitors may be unknown.

NTT announced last year that it would not seek to activate the new Universal Service Fund apparently because NTT Group could not reach internal consensus on Universal Service issues. As a result, the Universal Service Fund has not been activated in Japan, and the industry has for now been spared funding obligations – but a significant contingent liability continues to hang over the head of NTT’s competitors.

The issue of Universal Service will resurface when NTT decides to trigger the mechanism or when the Universal Service Fund is reviewed in 2004 (whichever occurs first). This provides the European Union with a window of opportunity to encourage Soumusho to move to a more rigorous and transparent approach to universal service before the issue surfaces again.

### ***Under-regulation of NTT***

A key design defect in the current regime is the failure to target regulation sufficiently at the market failure resulting from NTT's overwhelming dominance in the local loop and related downstream markets – enabling NTT to stifle the development of effective competition.

To move to an international best practice model the following measures need to be adopted into the Japanese regulatory framework:

- an effective wholesale regime for fixed line services (including “retail minus” pricing principles and electronic access to OSS) – to assist with the development of competition for local services. This will enable competitors to expand the footprint of their operations without upfront capital expenditure on infrastructure development and provide a stepping stone to local loop infrastructure development;
- strong regulatory accounting and information disclosure requirements on the incumbent – to enable the anti-competitive conduct to be more readily identifiable and to enable regulatory processes to be based on rigorously gathered and transparently disclosed evidence. European experience shows that it is critical to apply strict obligations to ensure transparency of costs, ensure charges to competitors are cost-based, monitor and prevent anti-competitive behaviour, and provide a means of independent audit. The cost and other information derived from this process has a critical bearing on competition. The absence of detailed obligations that comply with international best practice, such as those which are imposed by OFTEL on BT in the UK, is a fundamental weakness of the current regime;
- an effective methodology, such as OFTEL's “Stack Test”, to monitor and prevent anti-competitive pricing by the incumbent in fixed line services (using information disclosed by the incumbent under regulatory accounting and information disclosure obligations);
- stronger “ring fencing” rules to prevent NTT from leveraging its dominance in the local loop into new business areas. Current measures fall well short of this and, due to a lack of accounting and regulatory information, such conduct is not readily identifiable. As a result, NTT is now expanding into new business areas, such as Internet and data services, with no effective constraint on its ability to leverage its dominance and monopolize new markets;
- horizontal separation of NTT DoCoMo – to prevent anti-competitive cross-market leverage and cross-subsidisation between fixed and mobile businesses;
- an internationally accepted methodology for competition analysis and review (identification of appropriate market boundaries, and the identification of significant market power within those boundaries) – such as OFTEL's Effective Competition

Review – to give the regulator the tools it needs for its ongoing competition and monitoring role and produce economically robust competitive outcomes; and

- developing a culture of “enforcement” within the regulator – so that the incumbent knows that, if it behaves anti-competitively, it will face the consequences of its actions (see section below).

There have been recent indications that a Stack Test, a fixed line wholesaling regime, and an effective competition review mechanism will be adopted into the regulatory framework. The European Union must monitor developments to ensure this happens and that the measures adopted meet best practice requirements. The European Union must also maintain pressure to ensure the adoption of the other measures noted above into the regulatory framework.

### ***Stronger Monitoring and Prevention of Anti-competitive Conduct***

Soumusho and the Japanese Fair Trade Commission (JFTC) appears to give relatively little attention to the monitoring of anti-competitive behaviour by the incumbent to the long-term detriment of the telecommunications sector.

It is critical for Soumusho to actively investigate cases of anti-competitive behaviour by the incumbent and to publish the results its investigations. This approach has been adopted in most other jurisdictions, including major Asian jurisdictions such as Hong Kong and Singapore, and should be adopted in Japan.

For example, it is of concern that NTT appears to be cross-subsidizing its competitive services with revenues from its non-competitive services, and that this behaviour is going unchecked by the regulator. NTT appears to be pricing its international services at levels that are below cost, and which are unsustainable unless NTT is cross-subsidizing those services with revenues from its domestic services, where NTT enjoys a near-monopoly position. Such predatory pricing behaviour will result in substantial damage to the process of competition, and could force the exit of competitive carriers, to the detriment of consumers and the sector as a whole.

### ***Over-regulation of Competitors***

Under the existing TBL, there is substantial and unjustified over-regulation of non-dominant operators under the current Japanese regulatory regime. This impedes the ability of competitors to compete effectively with NTT and deliver lower prices and more innovative services to consumers.

An example of this over-regulation is tariff filing. Non-dominant carriers are required to make extensive filings with Soumusho. These filings include wholesale and retail tariff packages,

wholesale and retail prices, network lay-out, technical specifications, contractual terms, and other assorted information.

These filings serve no regulatory or public policy function when applied to non-dominant operators. Non-dominant operators in the Japanese market have no ability to impose unreasonable terms and conditions on their customers or to otherwise harm the process of competition. They have no essential facility or monopoly rights, so if customers are dissatisfied with their service, they are able to migrate to a competing supplier at little or no cost. The filings do not generate any benefits for customers, the industry, or the regulator, but do have significant drawbacks.

In addition to the competitive implications of these tariffs, the administrative drawbacks of the regulatory filings include:

- The direct cost to operators of preparing, submitting and explaining their filings. Given the rapid pace of change in the sector, and the need to frequently refile documents, the cost of meeting this obligation is high, and this is a cost which must be passed on to customers.
- The cost to Soumusho of reviewing and maintaining the voluminous filings submitted by operators.
- The diversion of Soumusho's attention (and resources) away from more important regulatory issues, such as monitoring of anti-competitive behaviour, to the detriment of the sector.
- The inertia the filings generate in the industry, as operators are reluctant to make significant changes to their tariffs and networks, because of the heavy obligation to submit extensive new filings.
- The uncertainty as to exactly what information needs to be filed (and when), which creates an ongoing area of risk for operators.
- The inability of non-dominant operators to respond flexibly to competition, both in terms of pricing and service features, placing non-dominant operators in a regulatory straight jacket, which is unresponsive to consumer demands.

Most other regulatory regimes do not require non-dominant operators to file network and tariff information. Some regimes, such as Singapore and Hong Kong, require *dominant* operators to file such information (given the damage they can cause to the process of competition), but these regimes have recognized the need to give non-dominant operators the flexibility to change their networks and tariffs.

Soumusho should have the powers to request information from operators when carrying out competition investigations, but the ongoing tariff filing obligation on non-dominant operators should be abolished, in accordance with international best practice requirements.

More generally, moving to an international best practice regime will require:

- shifting the focus of detailed regulation to dominant operators;
- moving to more of a competition law-based approach to regulating non-dominant operators;
- moving to a general system of technology-neutral class licences – to remove the artificial distinctions created by the current licensing regime;
- removing prescriptive controls from non-dominant operators to enable them to compete effectively – especially the obligations to notify and price on tariff; and
- increasing the dominance threshold in mobile markets (from 25% to the European standard of 40-50%) – to avoid catching operators who do not have any real ability to harm the process of competition.

There have been recent indications that licensing and pricing and tariff issues will be addressed in proposed amendments to the Telecommunications Business Law. It will be important for the European Union to monitor developments to ensure they meet best practice requirements and to maintain general pressure for further de-regulation of non-dominant operators.

### **3.3 Medium Term**

#### ***Independent Regulator***

Japan is unique amongst industrialised countries in that there is no stand-alone independent telecommunications regulator. Instead, Soumusho is responsible for setting telecommunications policy (including promoting the industry), as well as regulating its implementation (including ensuring fair competition). This situation has to change.

Independent telecommunications regulators have been established in most other industrialized countries, including in countries throughout Asia, in order to:

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- Remove the perception and incentive for conflict of interest between any Government ownership of an incumbent operator, and its role as the regulator.
- Insulate telecommunications from any political forces.
- Increase the perceived levels of neutrality in a regulator and thereby establishing an expectation of impartial treatment of all operators.
- Improve market confidence, thereby encouraging investment and the entry of new operators into the market.

It is imperative that Japan establishes an independent, stand-alone, telecommunications regulator. This regulator would need to have a clear mandate, budgetary independence, operational and functional separation, and transparent procedures.

The fixed line interconnection debate shows exactly how serious and urgent this problem is in Japan. This problem is so deeply institutionalised that it is difficult to see how anything will change without strong external pressure. It may be appropriate to pursue WTO action to force satisfactory change on this issue.

### ***Public Consultation Process***

The openness, fairness, and transparency of the “public consultation process” are issues of ongoing concern in Japan.

To open up the consultation process and make it fully transparent, Soumusho must, at a minimum:

- publish an annual management plan that gives consumer groups and the industry advance notice of consultation on issues that may affect them;
- issue a consultation document setting out its preliminary proposals on particular issues to draw in the views of the industry and the public. Consultation should take the form of an initial period for comments followed by a second stage of comments on the views expressed in the first round. All responses, other than those restricted on the grounds of commercial confidentiality, should be made available on the Internet;
- allow sufficient time for responding – current timeframes are too short in Japan (particularly for foreign operators given the need for translation). A minimum of 6 weeks should be allowed, although most developed countries with competitive telecommunications markets typically allow longer; and

- issue a statement setting out the results of the consultation process, responding to points made in the consultation process, and giving full details reasons for decisions.

To give this process real meaning, Soumusho must abandon “closed” processes, and use this revised consultation process as the primary vehicle for policy making decisions.

### ***Mobile Number Portability***

Given the distinguishing characteristics of the Japanese mobile market, particularly the presence of an overwhelmingly dominant operator with 60% market share, mobile number portability (MNP) could remove a substantial barrier to competition by “unlocking” the incumbent’s customer base and enabling free movement of customers between competing networks. However, given the mixed success of MNP in Europe and elsewhere in the world, it is important that the regulator not automatically assume that this will be the case, given the substantial costs that would be imposed on the industry. International experience suggests that MNP should only be introduced if:

- it has demonstrable benefits that clearly outweigh the costs of its introduction. Several distinguishing characteristics of the Japanese market are likely to have a significant impact on the cost-benefit equation. These include stronger competition on the basis of handsets and handset functionality, the use of handsets that are proprietary to each network, the absence of SIM cards, and the rapid rate of handset upgrades and renewals. There have been recent indications that the regulator may inappropriately decide the cost-benefit question solely on the basis of a consumer survey when a rigorous qualitative and quantitative analysis is clearly required;
- the industry (rather than the regulator) determines the technical solution to be employed (since this is a technically and commercially complex process that should not be second guessed by the regulator). The regulator has established a study group to facilitate work by the industry on this issue; and
- it is introduced in accordance with international best practice requirements. In particular, the technical solution must deliver “equivalence of service” (meaning that ported numbers must deliver equivalent quality, functionality and reliability as non-ported numbers), and pricing principles must be competitively-neutral. This means that operators should bear their own costs of implementing portability on their networks, operators should bear conveyance costs in relation to ported calls on their networks, and operators may charge a one-off administrative charge for porting a customer to another operator based on the costs of an efficient operator.

## **4G**

The Japanese Government is actively promoting (mainly at international institutions including the ITU) the allocation of spectrum and the development of specifications and standards for highly ambitious “4G” services (also known as “Systems Beyond IMT-2000”). This is driven by the e-Japan initiative, which is supposed to ensure Japan’s pre-eminent position in telecommunications and IT services. However, given that most mobile operators have still not recovered the costs of 2G investment, let alone 3G, such proposals are premature and risk undermining investor confidence, by implying that 3G’s lifespan is limited and a new round of investment is imminent. Although the industry will, at some stage, need to discuss the evolution of 3G, the development of new radio interfaces and the allocation of further spectrum, that is a long way off. The real threat is therefore the fact that Japan is pushing for early decisions on 4G (with rollout from 2010) which threaten to leave Japan isolated. Japan must be appraised of the investor and technical concerns which mean that pushing 4G too quickly will in fact undermine its e-Japan goals.

### ***Research & Development***

There is a need to fundamentally review NTT’s R&D obligation and Japan’s R&D set-up. The NTT Labs should not always be seen as a “national champion” that advances the interests and international competitiveness of the Japanese telecommunications industry. The “successes” of the NTT Labs make it easy to overlook the “downside” of locking the R&D function into the incumbent. Perhaps the greatest indication of this “downside” is the creation of a Japanese mobile telecommunications standard that is incompatible with every other mobile telecommunications network (unlike GSM networks), mobile handsets that are proprietary to individual mobile networks and prevent free movement of customers between competing networks (unlike GSM phones with SIM cards). These are examples of how locking the R&D function into the incumbent creates perverse incentives for the systems and technology developed by the labs to create a “walled garden” and “lock out” competitors. It is therefore necessary to create a more open and inclusive infrastructure for basic research and development.

## **4. ACTION PLAN**

Japan has the ability to significantly increase both the competitiveness of its telecommunications sector and the levels of foreign investment in that sector. But to unlock that potential, it is critical for regulatory reform to be introduced, particularly in regard to: releasing non-dominant operators from filing requirements, establishing a stand-alone regulatory agency for the sector, and focussing regulatory attention on anti-competitive conduct. The sooner these measures are introduced, the sooner the industry will grow.

On the basis of the analysis in the document, the EBC Telecommunications Committee proposes to the European Commission the following action plan to enable the EC to continue to address telecommunications issues in a manner that best promotes the interests of European corporations in Japan.

The issues addressed in these actions are not new. In making its proposals, the EBC Telecommunications Committee wishes to acknowledge the European Commission's active engagement for a number of years through initiatives such as the Regulatory Reform Dialogues and the High Level Consultations between DG INFOSOC and the Soumusho, not to mention personal interventions by Commissioners and the Ambassador in Japan. The EBC Telecommunications Committee hopes that its proposed action plan will assist the EC in continually focusing its work on the situation of the Japanese market place.

Priority	Issue	Objectives
<b>Immediate</b> (Next 1-3 months)	Fixed Line Interconnection	<ul style="list-style-type: none"> <li>• Prevent price increases.</li> <li>• Lower prices by excluding NTS costs.</li> <li>• Consider situation in regard to Japan's WTO commitments, and take action if necessary.</li> </ul>
<b>Short Term</b> (Current calendar year)	Universal Service	<ul style="list-style-type: none"> <li>• Prevent application of current flawed model and associated cost burden.</li> <li>• Encourage move to more rigorous European approach.</li> </ul>
	Under-regulation of NTT	<ul style="list-style-type: none"> <li>• Support proposals to introduce:               <ul style="list-style-type: none"> <li>- Stack Test;</li> <li>- Fixed line wholesaling regime; and</li> <li>- Effective Competition Review methodology.</li> </ul> </li> <li>• Share best practice and monitor developments to ensure strong and effective solutions.</li> <li>• Exert pressure for introduction of:               <ul style="list-style-type: none"> <li>- Strong regulatory accounting and</li> </ul> </li> </ul>

		<p>information disclosure obligations on NTT;</p> <ul style="list-style-type: none"> <li>- Stronger controls to prevent anti-competitive cross-market leverage by NTT into new business areas;</li> <li>- Stronger monitoring and enforcement of anti-competitive conduct by the incumbent;</li> <li>- Horizontal separation of NTT DoCoMo.</li> </ul>
	Over-regulation of Competitors	<ul style="list-style-type: none"> <li>• Support proposals for de-tariffing of non-dominant operators (subject to ongoing requirement on NTT to publish tariffs) and modification of licensing system.</li> <li>• Exert pressure for: <ul style="list-style-type: none"> <li>- Increasing mobile dominance threshold;</li> <li>- Competition law driven approach to regulating non-dominant operators; and</li> <li>- Further de-regulation of non-dominant operators.</li> </ul> </li> </ul>
<b>Medium Term</b> (Next 12-24 months)	Independent Regulator	<ul style="list-style-type: none"> <li>• Exert stronger pressure for operational and functional independence.</li> <li>• Consider whether the current situation fulfils Japan's WTO commitments and, if necessary, take action to produce change.</li> </ul>
	Public Consultation Process	<ul style="list-style-type: none"> <li>• Exert pressure for more open, fair and transparent process and move away from traditional "closed" processes.</li> </ul>
	MNP	<ul style="list-style-type: none"> <li>• Encourage full and rigorous cost-benefit analysis given substantial costs to industry and mixed record of success overseas.</li> </ul>
	4G	<ul style="list-style-type: none"> <li>• Appraise Japanese Government of the investor and technical concerns associated with pushing 4G too quickly.</li> </ul>
	Research and Development	<ul style="list-style-type: none"> <li>• Encouraging separation of primary R&amp;D function from the incumbent and a more open</li> </ul>

		and inclusive approach to R&D.
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**EBC Telecommunications Carriers Committee**  
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