

## **ATUG Opinion – 31 October 2007**

The 36th meeting of the APEC Telecommunications and Information Working Group (APEC TEL) was hosted in Santiago, Chile from 22<sup>nd</sup> to 26<sup>th</sup> October.

APEC is an inter-governmental group, operating on the basis of non-binding commitments, open dialogue and equal respect for the views of all participants. Unlike the WTO or other multilateral trade bodies, APEC has no treaty obligations required of its participants. Decisions made within APEC are reached by consensus and commitments are undertaken on a voluntary basis.

The APEC Telecommunications and Information Working Group (APEC TEL) provides a focus for cooperation in the region on market liberalisation, skills development, business facilitation, and technical and economic development in telecommunications and information technology. It meets twice a year, usually in March and October, and outside of the main APEC cycle.

One of the important events at APECTEL 36 was a Workshop on Encouraging Investment While Preserving Competition

This week's ATUG Opinion is a summary of the workshop provided on the APECTEL website at <http://www.apectel36.cl/documents/cpan/meetings/docs/2007-TELWG36-LSG-010.doc>

### Updates from Economies

- *Competition Policy Review* by Susan Johnston, Industry Canada, Canada

Ms. Johnston discussed two parallel reviews in Canada – a communications policy review and a broader competition review. Currently, Canada has two laws that govern telecommunications, the Telecom Act of 1993 and the Competition Act of 1995. The principle under which Canada operates is generally regulatory forbearance where there is sufficient competition. In July 2007, Canada commissioned a panel to review competition in general. Its report is due in June 2008. Ms. Johnston also offered a market overview, highlighting the fact that unlike some other APEC economies, Canada has both high telecom and cable penetrations.

- *New Competition Promotion Program 2010 in Japan* by Koji Ouchi, Ministry of Internal Affairs and Communications, Japan

Mr. Ouchi began his presentation with an overview of the broadband market in Japan. He emphasized the importance of unbundling in the growth of that market. Due to the changes brought on by Japan's transition to an IP-based network, it developed the "New Competition Promotion Program 2010" as a roadmap of measures to set fair competition rules by the early 2010's. The issues that will be reviewed in the process include facilities-based competition, interconnection, universal service, and tariff policy.

- *Investment and Competition in Singapore's Telecom Market – an Update* by Justin Lee, InfoComm Development Authority, Singapore

Mr. Lee discussed the progress in the Singaporean telecommunications market since 2000. There is now more competition, lower prices, and higher mobile phone and broadband penetration rates. The key policies that facilitated these changes were liberalized markets, light-touch regulation, careful dominant player regulation, and public-private partnerships to expand networks. Mr. Lee said Singapore does not limit the number of licenses (except in the case of scarce resources like spectrum), does not have foreign ownership restrictions, and is technology neutral.

- *Discussion*

Verizon of the United States asked Japan what happens to its copper once fiber is installed. Japan said that the copper is maintained to give consumers choices, and there are no plans to replace the copper. Canada then asked Singapore if all issues are handled by one agency, or if there is a separate agency for competition regulation. Singapore replied that there is only one regulator for telecommunications and

telecom competition policy, the Infocomm Development Authority. Australia asked Japan if they have measured upstream and downstream broadband traffic. Japan replied that their work examining the issue of network neutrality is currently underway.

### The Ideal Regulatory Environment for Investment

The session on “The Ideal Regulatory Environment for Investment” was a chance to discuss what policies and regulations best encourage investment in infrastructure build-out and upgrading, and if there are new preconditions for investments in certain types of technologies (i.e., converged infrastructures such as IPTV, DMB, etc.).

- *Infrastructure Competition and Investment: Experience of Hong Kong, China* by Lawrence Kwan, Office of the Telecommunications Authority, Hong Kong, China

Mr. Kwan explained that in Hong Kong, China, there are no foreign ownership restrictions, policies are pro-competition, regulations are light touch, goals are pro-consumer, and they rely on market forces to determine number of players in the market (except in the case of a scarce resource like spectrum). The role of the Office of the Telecommunications Authority (OFTA) is to enforce fair competition, ensure interconnection, manage spectrum, and coordinate numbering. There is no government subsidy to encourage infrastructure investment. Rather, the role of the regulator is to create a favorable environment for investing. To do this, OFTA worked with the Building Authority to encourage infrastructure expansion in residential buildings.

- *Municipal Regulatory Strategies for Internet Sector Growth* by Bill Woodcock, Packet Clearing House

Mr. Woodcock discussed the ways in which a regulatory environment can encourage competition and a healthy growing market, and still put downward price pressure on Internet services. He said that this work needs to be done at the municipal level, rather than nationally, because municipally, there are many specific rules that can facilitate Internet growth. He also noted that requiring a certain quality of service might prevent low-income users from being able to afford an inexpensive (but lower quality) service.

- *Malaysian Regulatory Framework* by Nor Arlinda Mohamed Khalid, Ministry of Energy, Water and Communications, Malaysia

Ms. Khalid presented on the rapid technological changes facing Malaysia, and how it is dealing with the changes. She emphasized the importance of adhering to the Telecom Reference Paper, and cited the OECD Guiding Principles for Regulatory Quality and Performance as a guide to adapting to the changing environment. Malaysia has shifted to technology neutral licenses, away from technology-based licenses, due to convergence. To deal with convergence, Malaysia merged several laws to create the Communications and Multimedia Act of 1998. Malaysia also depends on industry fora on access, consumer issues, content, and technical issues to make recommendations to the government.

- *Discussion*

Australia asked how we should reconcile a fixed penetration under 20 percent in some economies and the growth of fiber in other economies. Mr. Etcheberry, the moderator, said Chilean companies are struggling to effectively provide broadband access. Malaysia answered that they gain insight into these issues from their industry/consumer fora. Mr. Woodcock said that copper is expensive, while fiber is cheap, so it is important to eliminate restrictions on installing fiber. Then INTUG asked Malaysia if the fora were cumbersome, and if they made final decisions. Malaysia replied that the fora were flexible, and that they make recommendations, not final decisions. The Philippines asked Hong Kong, China two questions: 1) What is a reasonable financial return for companies, and who determines that? 2) Regarding quality of service, won't the public question the regulator for allowing low service quality but high returns to the company? Hong Kong, China replied to the first question that the regulator will not interfere with commercial decisions. Regarding the second question, the regulator will protect the consumer by stopping anti-competitive behavior. Mr. Woodcock added that the market allows low quality, but only for a low price. If the price goes up to create a high return, the market will drive that service out.

## Preserving Competition

The session on “Preserving Competition” allowed discussion to how make sure investment-friendly policies and regulations are pro-competitive, and creating a level playing field in the market. Questions to consider included what new challenges to effective competition are emerging, and how can member economies address it.

- *Regulation in Encouraging Investment while Preserving Competition* by Karen Northey, Commercial, Legal and Regulatory, British Telecom Global Services and Vice President, Asia Pacific Carriers’ Coalition

Ms. Northey stressed that the discussion should not be about balancing competition versus investment, because competition encourages investment and they create their own equilibrium. To encourage investment, there needs to be clear, effective and consistent regulation. Also, Ms. Northey said that bottleneck regulation is necessary, rather than regulatory holidays in exchange for investment. This is because competition drives innovation.

- *Wireless Access Provision – The Indonesian Case* by Sofi Soeria Atmadja, Director of Regional Affairs, Directorate General of Posts and Telecommunications, Ministry of Communication and IT, Indonesia

Ms. Sofi began with an overview of the Indonesian market, including the rapid growth of mobile service. She said that the objective of Indonesian regulations is to facilitate a competitive market environment and to encourage investment, innovation and developed of new services for more user choices. Also, the regulator should rely on market forces and introduce regulations only where necessary. She then presented a case study of fixed wireless access (FWA) in Indonesia. FWA may be direct competition to cellular mobile services because it has a lower interconnection tariff and lower spectrum fees. However, it is not as mobile as the cellular mobile.

- *Competition Policy and Investment* by Guillermo Thornberry, President of the Board of Directors, Osiptel, Peru

Mr. Thornberry said that telecommunications reforms started in Peru in 1990. In his market overview, he said that there has been an incredible increase in mobile subscribers, but there is much room for growth. To facilitate growth, Peru has a fund called FITELE to subsidize development of rural infrastructure. Peru’s goal is to promote competition – thus, choices – for existing users as well as new users. Mr. Thornberry also said that competition is a pre-condition for investment, and convergence allows broader deployment.

- *Discussion*

Hong Kong, China asked Peru if it eliminated pre-selection, is its selection now call by call, and how does this promote competition? Peru replied that they are helping consumers obtain information to choose best the company. They will also briefly eliminate the fee for changing operators, then transition to a reduced fee.

## Future Work

Patterns emerged in the discussions: Those economies with a fixed penetration in the 90 percent range are now interested in wireline broadband. However, for those with a fixed penetration in the 20 percent range, the focus is on mobile broadband.

The goal of the workshop was to discuss:

- 1) What policies and regulations best encourage investment in infrastructure build-out and upgrading,

2) How to ensure investment-friendly policies and regulations are pro-competitive, 3) How to create a level playing field in the market.

The discussion will continue at the next TEL meeting in Japan in March 2008, when the opportunity will be taken to understand the influences and impacts of fibre to the home developments in Japan.