This note is submitted by the Delegation of Japan to the Working Party No. 2 FOR INFORMATION at its next meeting on 27 October 2000.
Country Experiences With Separation / Integration in Regulated Industries

Japan

1. The electricity and telecommunications businesses are typical examples of sectors in which competition has recently been introduced in competitive activities of industries where non-competitive regulated activity and related competitive activity once co-existed. (Related to Q1)

2. The telecommunications business sector has undergone certain structural measures since NTT, the former monopolistic operator, was reorganised under a holding company. In addition, new regulations were introduced concerning the business spheres of regional telecommunications companies. (Related to Q2, Q3)

[Electricity]

1. Competition introduced to electricity sector

3. For many years, ten private electric power companies were allowed to monopolise all of the vertically integrated operations power generation, transmission and distribution of electricity in their designated business territories protected by government regulations against new entrants.

4. However, regulations against new entries into power generation or wholesale supply business were repealed in principle when the Electricity Utilities Industry Act was revised in 1995, facilitating entry by non-power companies into the power generation business. There was another revision of Electricity Utilities Industry Act in May 1999, which was enforced in March 2000, partially liberalising the retailing sales of electricity. Due to the revision, non-power companies were allowed to supply electricity to high-voltage large-volume consumers who can receive power through lines of over 20,000 volts and consume over 2,000 kilowatts in principle, by utilising transmission lines of power companies.

2. Neutrality of power transmission section

5. It is very important to maintain neutrality of power transmission section in order to ensure fair competition among power companies and newcomers. According to the revision of the Electricity Utilities Industry Act in May 1999, power companies are required to prepare a consignment agreement, which provides rules and guidelines when a non-power company requests to utilise their transmission lines. In case agreements are found inappropriate, the revised law allows the Minister of International Trade and Industry authority to order power companies to amend the agreements subsequently. The power companies are also accountable for their neutral positions in power transmission services while regulatory agencies oversee them through auditing of the balance sheets of the power transmission section and dispute settlements, based on the guidelines.
[Telecommunications]

1. Introduction of competition in telecommunications

6. Until 1985, the telecommunication sector of Japan was operated under the monopoly of two companies; the state owned Nippon Telegraph and Telephone Public Corporation which monopolised domestic telecommunication services, and the semi-state owned Kokusai Denshin Denwa (“KDD”) Co. which monopolised overseas telecommunication services.

7. In 1985, competition was introduced into the telecommunications sector when Nippon Telegraph and Telephone public corporation was privatised and transformed into Nippon Telegraph and Telephone Corp. (“NTT”). In 1998 Kokusai Denshin Denwa Law was repealed and the company was fully privatised. Furthermore in 1999 NTT was divided into four companies – a holding company and two regional companies which are semi-state owned, and NTT Communications which is a private company – with a view to meeting the variety of public needs for telecommunications services by promoting fair and effective competition, as well as by allowing NTT companies to operate international services.

8. As a result of introducing competition into the telecommunications sector, as of August 2000, 27 companies including DDI and Japan Telecom offer long distance and international services, and 203 companies including Tokyo Tsushin Network (TTnet) now offer regional services.

2. Regulations in regional telecommunications

9. According to the Telecommunications Business Law, a Type I telecommunications carriers which operates telecommunication business with its own telecommunication facilities is required to obtain the permission of the Minister of Posts and Telecommunications before starting operations. In principle, a Type I telecommunication carriers shall agree to the request for interconnection of telecommunications carriers. Authorisation by the Minister of Posts and Telecommunications is required when a Type I telecommunication carriers enter into an agreement or establish articles of interconnection agreement. In an effort to prevent adverse effects deriving from monopolistic conditions in regional telecommunications markets, a Type I telecommunications carriers installing designated telecommunications facilities has stricter regulations imposed compared to other Type I carriers. Regulations include price caps, requirements to establish interconnection agreements and requirements for disclosure of the authorised articles of interconnection agreement, etc. in accordance with the applicable ordinance of Ministry of Posts and Telecommunications. (A Type I telecommunication carrier installing designated telecommunication facilities is defined as a carrier with market share of over one-half the total user circuits in every prefecture. NTT East and NTT West are included in this category).

3. Reorganisation of NTT

10. In July 1999, NTT transferred its regional telecommunications service to NTT East and NTT West (“regional companies”), and its long distance and international telecommunications services to NTT Communications. NTT itself was restructured as a holding company (“holding company”) which underwrites all of the shares issued when those companies were established. As a result, certain structural problems on management forms of NTT as monopolistic carrier were resolved in terms of its structural problems.
11. The following regulations of NTT Law have been placed on the holding company and regional.

(1) Obligation to provide universal services.

(2) Obligation to promote research and development and propagate its outcome.

(3) Requirement to obtain the approval of the Minister of Posts and Telecommunications with regard to certain business operations such as amending articles of association or business plans.

(4) Requirements of government ownership of the shares of holding company (government owns over one third of the issued shares.) Requirement of the Holding Company to hold aggregate amount of shares of the regional companies. Restrictions on foreign shareholders. (Foreign shareholders must be less than one fifth of the total voting shares.)

12. Furthermore, the services provided by the regional companies are confined, in principle, to intra-prefecture communications.

13. Thus, regarding NTT, various administrative measures have been taken in respect to both structural and behavioural regulation with respect to the prevention of anti-competitive effects by vertical integration.

14. Finally, vertical separation should be studied paying due consideration to the characteristics of each industry, therefore, comprehensive policies have not been issued. (Related to Q4.)