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COMMUNICATIONS OUTLOOK 1999

TELECOMMUNICATIONS: Regulatory Issues

Country: Japan

Date completed: 10 July 1998

The attached questionnaire was undertaken in preparation for the biennial OECD *Communications Outlook*. The responses provided by countries on telecommunication regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on broadcasting regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

TELECOMMUNICATIONS

Market Structure and Regulatory Status (Questions 1 -13)

1. Please provide details of the regulation of communication infrastructure, including the public switched telecommunication network (PSTN), provision in your country.

Infrastructure provision for following service	Regulatory Status (e.g. monopoly, duopoly, limited number, fully open to any applicant)	Number of licensed operators (1998)
Local PSTN	fully open to any applicant	5
National PSTN	fully open to any applicant	15
International PSTN	fully open to any applicant	21
Analogue Cellular Mobile (e.g. NMT etc.)	fully open to any applicant	18*
Digital Cellular Mobile (e.g. GSM etc.)	fully open to any applicant	30*
Other Mobile Communication (e.g. PCS, PCN, CT-2 etc.)	fully open to any applicant	32
Payphones	fully open to any applicant	5

*As at 1 May 1998. With regard to the number of mobile communications business, there are restrictions on radio frequency.

2. Please provide details for the major public telecommunication operator (PTO) of public switched telecommunication services in your country. (PTOs are state and privately owned entities providing public switched telecommunication services over their own infrastructure)

Name of PTO	PTO Ownership Status (1998) (e.g. state owned/privately owned) If a balance of ownership exists please indicate the share (%) held by the government
Nippon Telegraph & Telephone Corporation (NTT)	<p>65% state-owned, 35% privately owned.</p> <p>As Japan's principal telecommunications provider, NTT needs to be managed in a neutral and stable manner. To this end, the NTT Act obliges the government to own one-third of the company's shares, thus ensuring that the management of the company is in the hands of specific persons and the rights of the shareholders are not abused. However, in view of the policy for the privatization of NTT, in principle the government intends to systematically sell off its shares that are not subject to compulsory ownership. Specifically, the government has a basic plan for the systematic disposal of 2.5 million of 5.1 million shares not subject to compulsory ownership, at the rate of around 500,000 shares per year. The sale of shares has however been deferred since 1989, in view of market conditions and other factors. Nevertheless, the budget that was passed in 1998 includes the sale of 1 million shares. Meanwhile, in 1999 NTT will be reorganized into a pure holding company with, under its aegis, two companies taking care of regional telecommunications (NTT East and NTT West) and one that takes care of long-distance telecommunications</p>
Other Type I telecommunications providers	Are privately owned. Local government bodies have put up part of the capital for 29 of the other Type I telecommunications providers

3. Please provide details of market share for the largest PTO in the following categories.

	The largest PTO's share (End 1997)
Local Access (% of access lines)	99.95%
National Long Distance (% of total minutes)	64.3% (End 1996)
International (% of total outgoing MiTT)	64.5% (End 1996)

4. Please provide details of the number of subscribers by cellular and PCN mobile communication operators.

Name of Operator	Number of Subscribers (End 1997)

5. Please provide a description of the most significant recent policy changes affecting the provision of telecommunications services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

As a result of the "First Info-communications Reform", there have been a significant number of new entrants and a drastic reduction in the number of non-competitive areas of the Japanese telecommunications market. This process have promoted benefits and greater convenience for users in Japan. In this reform process, the principles of competition were introduced into all areas of the telecommunications market and NTT was privatised. The social and economic environment surrounding the info-communications industry is in the process of change. This can be seen in phenomena such as the globalization of the industry, the diversification and sophistication of consumer and user needs, introduction of multimedia services supported by rapid technical innovation, and the role of info-communications in advancing the structural reform of the economy. These are major tasks for the future of Japan and are growing increasingly important.

Taking account of the above points, MPT has made efforts to implement the "second info-communications reform" as soon as possible, and intends to stimulate the info-communications market by further promoting competition. In particular, MPT is dealing with three key issues: "Promotion of deregulation", "Promotion of efficient interconnection" and "Status of NTT".

"Promotion Of Deregulation"

In the Japanese telecommunications sector, MPT has made vigorous efforts to promote deregulation on market entry, tariffs, etc. In addition, in the "Three-Year Program for the Promotion of Deregulation" decided upon by the Cabinet in March 1998, steps towards further deregulation were announced. The following are some examples of recent main deregulatory measures.

(1) Relaxation of regulations on market entry: The provisions aimed at preventing excess telecommunications investment, etc., which were criteria that must be met by Type I telecommunications carriers wishing to enter market were abolished in November 1997.

(2) Relaxation of tariff regulations: A tariff system subject to approval will be abolished and replaced by a notification tariff system. Incentive based regulation will also be introduced. The amended law was enacted in May 1998.

(3) Liberalization of leased circuit usage: 1) Interconnection of leased circuits with PSTN (public switched telephone network) for domestic voice services was fully liberalized in October 1996.
2) Interconnection of leased circuits with PSTN for international services was made possible in December 1997.

(4) Relaxation of restrictions on foreign investment: 1) All restrictions on foreign investment in Type I telecommunications carriers, except for NTT and KDD, were abolished in February 1998.
2) The restrictions on foreign investment in KDD will be abolished. The amended law was enacted in May 1998.

(5) Abolition of the KDD Law: 1) The KDD Law will be abolished and KDD will undergo complete privatization. The amended law was enacted in May 1998.

"Promotion of efficient interconnection"

The Amended Law, which specifies new interconnection rules, in order to ensure benefits for users and to promote competition through promotion of efficient interconnection, was passed in the Diet and promulgated in June 1997. The main thrust of the section of the amended law, relating to interconnectivity, is the designation of telecommunications facilities which handle a large proportion of subscriber lines (designated telecommunications equipment). It emphasizes the following duties for telecommunications providers who use this equipment:

(1) Provisions must be determined regarding interconnection conditions (connection charges, technical considerations etc.) 1) Technical conditions for the standard areas related to connectivity must be determined within the connection provisions. 2) Connection tariffs must be determined for each function unbundled by the connection provisions.

(2) Accounting records regarding interconnectivity with the designated telecommunications facilities must be kept, and the total expenditure related to this interconnectivity must be formally announced. Connection tariffs are based on the results of this accounting. The calculation for this is based solely on expenses necessary for connection.

(3) Any change in, or addition to, these designated facilities must be formally announced. This will ensure the provision of interconnectivity that is transparent, fair, fast and logical. Furthermore, competition will be stimulated and convenience for users enhanced. Based on this, MPT designated the NTT local telecommunications network as a designated telecommunications facility in December 1997. As a result, there was an application from NTT regarding interconnectivity provisions in January 1998. Approval for this was granted in March of the same year. If we consider the most common connection, the standard price for NTT connection tariffs have decreased steadily by about 10% per year for the past few years. During 1997 there was about a 10% decrease. While lowering connection tariffs one level in the middle of May 1998, a proposal has been submitted for the Spring 2000 Parliament, with the aim of the quick introduction of a "long run incremental cost accounting system". MPT also made clear its intention to give careful consideration to the introduction of this system, so as not to negatively influence the provision of universal services, user tariffs or business management. Research into the "long run incremental cost accounting system" is progressing rapidly in other countries, such as the United States. NTT plan to continue working on the speedy creation of such a model, through the exchange of information with each of these countries.

"Status of NTT"

As a result of the consideration of the status of NTT based on the "Revision of the Deregulation Action Program" issued in March 1996, MPT determined the "The Policy on the Restructuring of NTT" in December 1996. Under the Policy, NTT will be reorganized into one long-distance company and two regional companies under a purely holding company. In accordance with the necessary laws passed by Diet in June 1997, MPT determined the "Basic Principles concerning the transfer of the business activities and the succession of the rights and obligations of NTT" in December 1997. NTT will be reorganized in 1999.

6. Please provide a brief description of the responsibilities of the national regulatory authorities for public telecommunication services.

The Ministry of Posts and Telecommunications (MPT) is a regulatory body for telecommunications services in Japan. The main legislation for telecommunications business in Japan is the Telecommunications Business Law, enacted in April 1985. In the Telecommunications Business Law, regulations are in place to govern such items as permission, authorization, etc. regarding the telecommunications business, telecommunications facilities and right to use the land by Type I telecommunications carriers. MPT regulates and monitors telecommunications services on the basis of the Law.

7. Are there any foreign ownership, size of shareholding or other ownership restrictions on individuals and corporations investing in the incumbent PTO(s) in your country?

Yes. On February 5th, 1998, Japan removed all restrictions on foreign investment in Type I telecommunications carriers, including radio station licences, except for NTT and KDD. In addition, in May 1998, the Law for the Abolition of the KDD Law was enacted, removing the restriction on foreign investment on KDD as well. Consequently, the restriction on foreign investment up to 20% for NTT is the only restriction in Japan. There are no other restrictions on share ownership except for this.

8. Are there any communication infrastructures or services (e.g. cable television, terrestrial broadcasting, satellite broadcasting) PTOs in your country who are not permitted to directly provide? In addition, please specify any restrictions on PTOs investing in companies that such infrastructure or services.

There are no restrictions on the services provided by Type I telecommunications carriers except for NTT. This means, for example, that Type I telecommunications carriers may provide CATV services. As of May 1998, 37 CATV providers had been given a permission to conduct business as Type I telecommunications carriers, and 27 of these have already started providing Type I Telecommunications services. Since NTT is a special company that has public objectives such as the provision of universal service, the NTT Law defines it as a "company for the operation of domestic communications business". Consequently, it shall not offer services in other sectors, such as CATV. There are no restrictions on providing services by KDD since the Abolition of the KDD Law (enacted in May '98).

9. Is the incumbent PTO(s) in your country allowed to provide mobile communication services?

If 'yes', is there a requirement for accounting separation between the PTO's mobile and fixed operations?

Yes. There is no restriction on the provision of mobile communications services by Type I telecommunication carriers. With respect to the division of accounting for mobile and fixed communication businesses, separate accounting is required for revenues, expenditure, etc. related to itemized telecommunications services (e.g. subscriber telephones, car telephones, other mobile phones, etc.) in the Telecommunications Business Accounting Regulation.

10. What selection procedures are used to determine licenses for new PTOs (e.g. calls for tenders, government appointments, license on request)?

Any person who intends to operate Type I Telecommunications Business shall obtain permission from the Minister of Posts and Telecommunications in accordance with Telecommunications Business Law. A consultation with the Telecommunications Council is required for Type I Telecommunications Business permission. Any Type I telecommunications carriers which intends to establish networks using radio equipment shall obtain a license for radio station in accordance with the Radio Law in addition to the permission in accordance with Telecommunications Business Law (as mentioned above). Information necessary for the procedure to gain permission for Type I Telecommunications Business is given in the "Manual for Market Entry into Japanese Telecommunications Business" published by MPT in January 1996. This Manual is readily accessible via the Ministry's home page on the Internet. To ensure the transparency of the regulations, along with the enforcement of the Administrative Procedures Law, measures were taken and announced in October 1994 on the detailed examination standards for permission, authorization, etc. regarding the telecommunications business and the standard processing period. Except for mobile communications business, in which there are restrictions on radio frequency, there is no government restriction on the number of carriers.

11. Please specify any restrictions or obligations imposed on new competitive network suppliers?

No particular restrictions or obligations are imposed on new telecommunications carriers. They are treated in the same way as existing carriers

12. Are there any restrictions on the use of leased lines nationally or internationally (including resale)?

Yes.

- 13. Under the communication regulation existing in your country how would national and international voice telephony services provided over the Internet, by entities other than a PTO, be defined and treated? Please mention any restrictions or obligations that may apply.**

In the Guidelines to Liberalize the Provision of International Internet Telephony Services published in August 1997, "Internet telephony services" are defined as "telecommunications services to convert sound into Internet protocol packets, and use a packet switching system to transmit them". Telecommunications carriers that provide international Internet telephony services are required to submit a report on the volume of traffic

Pricing (Questions 14 -15)

- 14. What, if any, conditions are applied to the tariffs set by PTOs? (Please include any price control information such as price caps and specify for which service they apply).**

A notification system is applied to telecommunication charges. A price-cap will also be applied to user charges for the services that NTT provides which are essential to the community, economy and which do not face significant levels of competition. These services include telephone service, ISDN and leased circuit services in the local telecommunication sectors.

15. If communication discount schemes are available in your country please provide information on one or more popular schemes applicable to residential users, dial-up Internet access users and a low user scheme from the incumbent PTO. In the space below please indicate the main features:

Services	Service providers	Discount Rate(MAX)
*Discount Services Regardless of Calling Hours and Date	Domestic and cellular carriers	20%
*Discount Services for Grouped-line Unit Regardless of Calling Hours and Date	Domestic and cellular carriers	25%
*Discount Services for Night time and Holidays	Domestic,cellular and international carriers	60%
*Discount Services for Specified Destination and international carriers	3 Long-distance NCCs, cellular	15%
*Discount Services for Specified Area Code	NTT, 3 Long-distance NCCs	25%
*Volume-sensitive Type Large-Volume Discount Service	Cellular and international carriers	25%
*Late night-Early morning Flat-rate Service	NTT	Fixed charge
*Discount Service for Domestic/International Combined Rate	International and long-distance NCCs	25%

Note: Residential user refers to an average consumer's home telephone service. A dial-up Internet user refers to a consumer accessing the Internet via a PC with a modem over the local public switched telecommunication network. Low user schemes is a term sometimes applied by PTOs to schemes designed for segments of the community that are financially disadvantaged.

Numbering/Domain Names (Questions 16 - 17)

- 16. Please describe the numbering policy in your country. Please mention the responsible authority and whether portability has been introduced and for which services (e.g. 800 numbers, cellular numbers, local PSTN numbers).**

Telecommunications numbering is regulated according to ministerial ordinance based on article 48-2 of the Telecommunications Business Law (Rules of Telecommunications Numbering), and other related announcements. Article 4 of the Telecommunications Business Law outlines the following as the standards for telecommunications numbering to which telecommunication providers should conform.

It is the case that:

- * Use of telecommunications numbering should be limited to when needed for carrying out telecommunications related functions,
- * Telecommunications numbering should be used for distinguishing between types of telecommunication facilities or telecommunication functions and their content,
- * The efficient use of telecommunication numbering should be planned,
- * Users should have fair access to the use of telecommunication numbering,

and

- * The numbers used should be those specified by the Postal Minister. The Postal Minister shall specify these telecommunication numbers on the basis of applications by telecommunication providers.

The report entitled "Basic Rules for Interconnection," compiled by Telecommunications Council in December 1996, recommended that Number Portability should cover subscriber telephone numbers, ISDN numbers and freephone service numbers. "Study Group on Practical Systems for Number Portability," hosted by MPT since August 1997, will compile a report about technical requirements in May 1998.

- 17. Have there been any recent government policy initiatives in your country in respect to the administration of Internet top level domain names. (An example of a top level domain name is .be for Belgium). Yes/No**

Japan recognizes that the management system of the domain names is one of the most important issues that will affect future development of the Internet. Based on this, MPT formed a Study Group on Internet Domain Names which had participation by experts from the private sector and academia. The Study Group operated between March to June 1998 and made several comprehensive studies. In June 1998 the Study Group reported their results the following areas: 1) the proposed international management system of domain names, 2) the proposed management system of ccTLD, 3) future perspective of DNS. Japan (MPT) will provide this report to the international arena of discussion to promote further discussion on this issue.

Interconnection (Questions 18 - 21)

- 18. Are PSTN interconnect or access charges a matter for commercial agreement between operators and if so is there provision for arbitration and by whom? Is there a requirement to publish the rate for PSTN interconnect or access charges?**

If 'yes' please provide a schedule of interconnection charges for the PSTN.

Yes, they are a matter for commercial agreement. However, Type I telecommunication carriers should obtain ministerial authorization for interconnection agreements. In addition, Type I telecommunication carriers with a significant number of subscriber lines, which are called "designated facilities," should set tariffs for interconnection conditions in advance, and should obtain Ministerial authorization for these tariffs. (Note: NTT's local network is the only network declared as "designated facilities".)

Yes. MPT effects arbitration based on an application by telecommunications carriers.

Type I telecommunications carriers with designated facilities should disclose tariffs for interconnection conditions.

- 19. For the purpose of establishing interconnect or access charges is accounting separation used?**

Separate accounting is practised. Specifically, telecommunication carriers which install designated facilities should organize accounts for interconnection with designated facilities and publish the state of income and expenditure for interconnection.

- 20. Once the interconnection or access charge has been established is it available as a standard rate for other service providers (including other PTOs and resellers)?**

Yes. Interconnection conditions for designated facilities (including technical conditions) are applied fairly to all providers (including resellers). It is clearly stated in the tariff schedules for interconnection conditions that, in cases where the connection format is exactly the same, tariffs and conditions for users will be applied in the same manner.

21. Does regulation specify that competitive service providers can co-locate facilities on the same site as incumbent PTOs? Please indicate whether resellers and Internet Service Providers can collocate equipment under the same terms and conditions as PTOs without being designated as a PTO?

Yes. The Ministerial ordinance regulates that there should be provisions concerning costs and conditions in situations where other service providers locate equipment necessary for connectivity in buildings etc. managed by incumbent operators of designated equipment. Based on this, it is regulated in the interconnection provisions that the calculation of tariffs should be handled on the basis of cost.

Information for Updating OECD Tariff Comparison Baskets (Question 22)

22. Please provide the following information for your largest PTO.

What is the average duration of a local call (i.e., average time of a call in the lowest tariff band for PSTN)?	148 seconds	
What is the proportion of calls that fall within your lowest tariff band (i.e. local calls) as a percentage of total national calls?	Business (%) 37	Residential (%) 29
What percentage of calls from the fixed network (PSTN) terminate in mobile networks (e.g. analogue and digital cellular networks)?	fixed to mobile - 33 % mobile to fixed - 46 %	
What percentage of total leased lines (i.e. leased circuits) are local (i.e. 2 km or less)?	33% (less than 15 km)	

Universal Service/Consumer Issues (Questions 23 -25)

23. In the context of universal service policies which elements of telecommunication service are considered as part of universal service in your country?

Telephone service.

24. Please provide details of any explicit funding mechanism for universal service and its coverage.

There is no explicit funding mechanism for universal service. The NTT Corporation Law stipulates that NTT shall provide telephone service properly and equally throughout Japan.

- 25. With what institutions other than telecommunication service providers can customers lodge complaints regarding these operators? (e.g. regulators, ombudsman, Ministry, etc.) Is there a requirement for annual reporting of the number of consumer complaints? If so how are complaints measured and reported.**

MPT and some consumer counselling organizations, such as the Japan Consumer Information Center, are available for consumer complaints. There is no requirement for annual reporting of the number of consumer complaints. However, with regard to the number of complaints concerning telecommunications services received by MPT, the Telecommunications Consumer Affairs Office shall once every fiscal year compile and publish complaints and enquiries received over the telephone or by other means in accordance with the "Outline of Processing of Complaints Concerning Telecommunications Services".