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## COMMUNICATIONS NEWS

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# Law to Amend Telecommunications Business Law, NTT Law and Related Laws Passed the Diet on June 15

Upon receipt of the First Report on Desirable Pro-competitive Policies in the Telecommunications Business Field for Promoting the IT Revolution compiled by Telecommunications Council, Ministry of Public Management, Home Affairs, Posts and Telecommunications submitted a bill to amend Telecommunications Business Law, NTT Law and related laws to the Diet on April 10, 2001. The bill passed the Diet on June 15, and was promulgated on June 22. The new law stipulates the following provisions as outlined below:

- I. Introduction of new asymmetric regulations
- II. Introduction of wholesale telecommunications service system
- III. Establishment of Telecommunications Business Dispute-settlement Commission
- IV. Measures for ensuring the Rights-of-Way (ROW)
- V. Ensuring the provision of universal service
- VI. Expansion of the business scope of NTT East and NTT West
- VII. Relaxation of foreign capital ownership restriction of NTT and other Issues

## I. Introduction of new asymmetric regulations

1. In order to promote further competition in the Telecommunications Business Field and eliminate anti-competitive behavior of major telecommunications carriers which are assumed to have market power in a more transparent manner, fair competition rules shall be strengthened.
2. Anti-competitive safeguards shall be applied to the following two categories of telecommunications carriers:
  - 1) A Type I telecommunications carrier that possesses the Category I-designated telecommunications facilities (regional fixed system)
  - 2) A Type I telecommunications carrier

that possesses the Category II-designated telecommunications facilities (mobile system) and that is designated by the Minister of Public Management, Home Affairs, Posts and Telecommunications on account of the carrier's market shares, the movement of its shares and other aspects.

3. Carriers falling under the preceding items 1) and 2) above, by clarifying three sets of prohibited behaviors, namely, the abuse or provision of proprietary information obtained from competitors through interconnection for other purposes; unduly favorable or unfavorable treatment of specific telecommunications carriers; and, undue compulsion or intervention upon other telecommunications carriers, manufacturers/suppliers of telecommunication equipment or content providers, effective measures (order to suspend/change behavior) enabling quick correction of violation thereof will be introduced under the revised laws.
4. Limited to telecommunications carriers of item 1), the revised laws set legal "firewall" restrictions (prohibition of concurrency of board members; ensuring equal treatment upon use of buildings/facilities and upon provision of information necessary for interconnection; and ensuring

equal treatment upon being entrusted with various services) on telecommunications carriers having special relations therewith (designated among parent companies, subsidiary companies, and fellow subsidiaries by the Minister of Public Management, Home Affairs, Posts and Telecom-

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munications). Effective measures (non-penal fines or order of suspension/change of behavior) for rapidly correcting violation thereof and ordering carriers falling under item 1) to annually report compliance thereof will be established under the revised laws.

5. Formulating and changing tariffs, interconnection tariffs and facilities sharing agreements of telecommunications carriers falling under item 1) shall remain under the existing approval system, but formulating and changing tariffs, interconnection agreements and facilities sharing agreements among carriers except item 1) (current regulations remain) shall be relaxed from the approval process to the notification process.
6. A Type I telecommunications carrier that possesses the Category II-designated telecommunications facilities (mobile system) shall be obliged to establish, notify and disclose their interconnection tariffs.

## II. Introduction of wholesale telecommunications service system

1. In order to improve effective use of fiber-optic networks of local governments, public utilities and other entities and improve network flexibility of telecommunications carriers, regulatory frameworks which enable flexible provision of wholesale telecommunications services through individual contracts among businesses shall be introduced.
2. All wholesale contracts shall suffice under the notification system.

## III. Establishment of Telecommunications Business Dispute-settlement Commission

1. A new administrative system for dispute settlement shall be introduced to ensure quick and effective dispute resolution among telecommunications carriers.
2. Outline of the Telecommunications Business Dispute-settlement Commission
  - 1) Dispute settlement organization independent of the section in charge of permissions and authorizations shall be established based upon Article 8 of the National Government Organization Law.
  - 2) The commission shall comprise five members (a maximum of 2 of

them shall be full-time members) appointed by the Minister of Public Management, Home Affairs, Posts and Telecommunications with the consent of the House of Councilors and the Houses of Representatives.

- 3) For conducting secretarial work, an independent secretariat shall be set up under direct control of the commission.
3. As choices of dispute settlement procedures for resolving various degrees of conflict, new procedures (mediation/reconciliation) shall be established in addition to arbitration.
4. The commission may recommend that the Minister of Public Management, Home Affairs, Posts and Telecommunications take necessary action including improving competition rules in the telecommunications business field.

## IV. Measures for ensuring the Rights-of-Way (ROW)

The measures to be taken include establishing dispute settlement procedures for ROW conducted by the Telecommunications Business Dispute-settlement Commission and establishing coordination procedures between MPHPT and agencies involved in the use of public land such as roads, leading to smooth and quick use of utility poles, ducts, conduits and the like by telecommunications carriers.

## V. Ensuring the provision of universal service

1. For ensuring the provision of universal service (prescribed by the applicable ordinance of the Ministry of Public Management, Home Affairs, Posts and Telecommunications), a new system (Universal Service Fund) shall be introduced where telecommunications carriers are required to shoulder the fair cost burden.
2. Designation of Eligible Telecommunications Carriers (ETCs)
  - 1) Under the new system, telecommunications carriers providing universal service may be designated as ETCs followed by application of those carriers.
  - 2) ETCs may receive universal service supports as a part of financial compensation for the cost of universal service provision.
  - 3) In order to provide for the univer-

sal service support, telecommunications carriers interconnecting with ETCs' facilities for providing universal service shall be required to shoulder reasonable contributions for the provision of universal service.

3. Designation of Universal Service Support Institution
  - 1) A non-profit organization shall be designated as Universal Service Support Institution, which is envisaged to conduct activities such as providing universal service support to ETCs as well as collecting contributions from other telecommunications carriers.
  - 2) Providing universal service support and collecting contributions by the Universal Service Support Institution requires authorization from the Minister of Public Management, Home Affairs, Posts and Telecommunications.

## VI. Expansion of the business scope of NTT East and NTT West

1. NTT East and NTT West shall be allowed to conduct new telecommunications services (so-called "utilization service") utilizing equipment, technology and/or personnel the companies possess for conducting regional telecommunications services by obtaining authorization from the Minister of Public Management, Home Affairs, Posts and Telecommunications under two conditions mentioned below.
2. Clearly stipulated as two conditions for the authorization are: i) no possibility of existence of obstructions for ensuring smooth operations of the regional companies' existing services and ii) no possibility of existence of obstructions for ensuring fair competition of telecommunication business.

## VII. Relaxation of foreign capital ownership restriction on NTT and other issues

1. Foreign capital ownership restrictions on NTT holding company shall be relaxed from less than 20% to less than 1/3.
2. Special measure shall be introduced for allowing the NTT holding company to issue new shares by notification until the number of the company's shares reaches a certain level specified in the applicable ministerial or-

- dinance of MPHPT for a period of time.
- The authorization system for the NTT holding company for sales of NTT Communications Corp. shares held by the holding company shall be abolished.

#### VIII. Miscellaneous

- Along with the series of regulatory reforms above, the Telecommunications Business Law shall add “promotion of fair competition in the field of telecommunications business” in its purposes.
- In the supplementary provisions of the amended law, comprehensive re-

view of regulatory frameworks concerning telecommunications shall be provided, taking into account the progress of Internet technology, convergence of communications and broadcasting, the situation of the enforcement of the revised laws and other matters.

## “Study Group Concerning Policies for the Preparation of a Mobile Content Business Environment” Compiles a Report

With the rapid growth in the use of Internet access services using mobile telephones, the lack of specific rules for regulating content and transactions from mobile terminals is noticeably emerging. Against these backdrops, the Ministry of Posts and Telecommunications (now MPHPT) had, since November 2000, been holding a “Study Group Concerning Policies for the Preparation of a Mobile Content Business Environment” (Chair: Prof. Yasuo HASEBE, Graduate School of Law and Politics, the University of Tokyo) in order to foster the mobile content business.

The group has been conducting studies on i) the current status of content distribution over mobile communications networks, ii) a mobile content business environment necessary for fostering the mobile content business, iii) roles of the private and public sectors in preparing the environment, and iv) issues to be solved.

After a series of deliberations, the group compiled its findings as a report.

#### 1. Targets of the evaluation system

- Facilitate development of content applications for individual and corporate users under fair competition through expansion of the scope of user ID setting, offered exclusively by telecommunications carriers.
- Facilitate configuration of development cost recovery models for supporting high-quality content applications.
- Prepare an environment where personal information would be adequately and effectively utilized in a well-balanced manner between “protection” and “use” of personal information.
- Check socially unfavorable information distribution.

#### 2. Pillars of the evaluation system

Pillars for effectively employing the

evaluation system are as follows:

- Independence of the evaluation system from the administration is necessary for evaluating content and websites equitably and explicitly.
- Fairness and transparency shall be ensured in rule making and change of rules.
- Third-party examination and auditing shall be introduced to ensure effective observance of rules.
- An incentive mechanism shall be incorporated into the evaluation system, under which online content providers (OCPs) would willingly be examined and audited (even if they have to shoulder the costs).

#### 3. Release of user IDs

Rules for user IDs are as follows:

- It is necessary that a provider who are released user IDs shall satisfy a security requirement set by the provider according to an operation guideline for dealing with personal proprietary information of users.
- Where a corporation connects user accesses to the corporation’s database, a user ID would become a strong tool for identifying the user. Thus, more stringent handling shall be required for providing the corporation with user IDs. On the other hand,

where a corporation without a database utilizes user IDs only for “counting” to charge and management of “session,” simplified examination and audit shall suffice in meeting the rules.

#### 4. Content-fee billing commission service\*

- Responsibilities accompanying the content-fee billing commission service shall be clarified among service providers involved. Accordingly, the rules concerning the content-fee billing commission service shall be formulated in response to social concerns about harmful content. Thus, the evaluation system shall be decided upon taking into consideration the nature of responsibilities accompanying the content-fee billing commission service.

Note: Content-fee billing commission service: A billing system (mobile or other Type 1) telecommunications carriers offer online content providers (OCPs), through which goods (including information goods) and services are ordered over IP (or mobile) networks. Amounts of payment for the goods and services are included in telephone [or mobile phone] bills. OCPs are indirectly paid from telecommunications carriers after deduction of commission.

- 2) In consideration of the content-fee billing commission service, content itself shall be selected carefully in light of social order. Rules are to be introduced for excluding delict, harmful content counter to public policy, unfavorable influence on minors, etc.
- 3) In addition to rules governing content, rules ensuring eligibility of OCPs shall be established. In other words, the rules shall ensure stable management foundation of OCPs, exclude antisocial groups, etc.
- 4) Sufficient consideration shall be paid for the content-fee billing commis-

sion service not to foster any illegal and antisocial transactions.

**5. Basic design of the evaluation system**

Measures for starting the service at the earliest possible stage

- 1) The evaluation system concerning user IDs and content-fee billing commission service is urged to be set up. To this end, it is important to draw up a blueprint of the evaluation system within FY2001.
- 2) At the beginning, the evaluation system will be operated for evaluating user IDs and content-fee billing com-

mission service, then the system will be gradually, in two steps, expanded into the final stage, with one eye toward utilization of this system as reasonable safeguards for protecting proprietary information in the near future.

- 3) The final model of the evaluation system shall be, based on public opinions in response to the report compiled by this study group, decided upon at a forum for establishing a “commission.”

# Advanced Use of PHS (Personal Handyphone System) and Efficient Use of Frequencies to Be Promoted

## -- Technical Requirements for Radio Facilities --

On June 25, 2001, MPHPT received a report on “Technical Requirements for Radio Facilities Necessary for Advancement of PHS Coexisting with IMT-2000” from the Telecommunications Council (Chair: Mr. Yoshihisa AKIYAMA, Chairman, Kansai Electric Power Co., Inc.) .

**[Backdrops of the Report]**

Since the inauguration of PHS service in 1995, PHS have penetrated mainly into urban areas as simple and low-priced mobile communications means; now the systems, in parallel with cellular telephone systems, are very popular

information and communications tools closely involved in national daily lives. In response to a report “Measures for Introducing Technology Contributing to Promotion of Advanced Use of PHS” from the Telecommunications Technology Council (July 1998), the quality of speech upon moving and indoors, etc. and level of convenience were improved for PHS, resulting in increased data communications traffic mainly for Internet access.

Use of PHS are thought to have expanded as a means for mobile Internet access, as a result, data communications will lead to a sustainable traffic growth.

Accordingly, introduction of new technology, etc. toward further advancement of PHS service are needed to be studied for properly meeting various and enhancing user demands. In addition, because frequencies allocated for PHS are adjacent to those for the third-generation (3G) mobile communications systems (IMT-2000), in advancing PHS , measures for reducing interference are taken into consideration.

**[Outline of Advancement]**

Technical requirements compiled this time for advancement of PHS, based on a study into various measures for the ad-

**Table Outline of technical requirements for advanced PHS**

	Advanced PHS	Existing PHS
Modulation methods	BPSK, $\pi/4$ shift QPSK, QPSK, 8PSK, 12QAM, 16QAM, 24QAM, 32QAM (Adaptive modulation methods)	$\pi/4$ shift QPSK
Frequency bandwidth	288 kHz, 884 kHz	288 kHz
Improvement of roll-off rate	0.38, 0.5	0.5
Slot configuration	Efficient slot configuration	--
Packet communications	Dormant function	--
Error correction codes	Introduction of error correction codes	--
Terminal-to-terminal communications	Abolition of communications time limitation	Communications time: 180 sec. Number of slots: 2
Path division multiple access (PDMA)	Introduction of PDMA	--

vancement of PHS coexisting with IMT-2000, will enable high-speed data transmission up to 1 Mbps. (See Table on page 4.)

Coexistence with IMT-2000 will be realized through introduction of a filter for reducing adjacent carrier interference and gradual shift of PHS control chan-

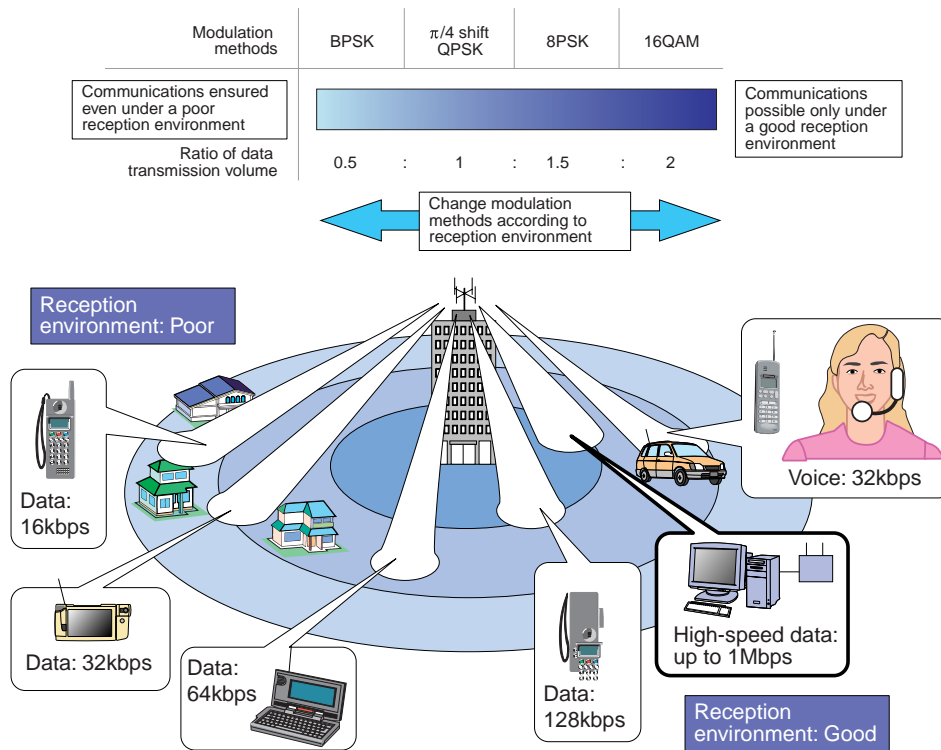
nels for reducing guard bands currently in existence for IMT-2000 bands.

MPHPT will, based on the report, amend relevant ministerial ordinances.

**Fig. 1 Introduction of the chnology for advanced PHS**

Technical requirements compiled this time for advancement of PHS, based on a study into various measures for the advancement of PHS coexisting with IMT-2000, will enable high-speed data transmission up to 1 Mbit/s through various combinations of those measures. (See examples.)

- Adoption of 16QAM:	2 times faster
- Carrier frequency bands multiplied by 3, and improvement of the roll-off rate:	3 times faster
- Number of slots per frame to 4:	2 times faster
- Efficient slot configuration:	1.2 times faster
<b>Total:</b>	<b>16 times faster</b>
Note: Existing PHS (64 kbps) = 1	



**Fig. 2 Introduction of technology for coexistence of advanced PHS with IMT-2000**

Coexistence with IMT-2000 will be realized through introduction of a filter for reducing adjacent carrier interference and gradual shift of the PHS control channel for eliminating the guard band currently close to IMT-2000 bands.

