

31 January 2023

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Council for Trade in Services

Original: English

**NOTIFICATION PURSUANT TO ARTICLE III:3 OF THE
GENERAL AGREEMENT ON TRADE IN SERVICES**

The following notification, dated 31 January 2023, from the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, is being circulated to Members of the Council for Trade in Services.

1 MEMBER NOTIFYING:

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu

2 NOTIFICATION UNDER:

Article III:3 of the General Agreement on Trade in Services

3 DATE OF ENTRY INTO FORCE:

1 July 2020

3.1 Duration:

Indefinite

4 AGENCY RESPONSIBLE FOR ENFORCEMENT OF THE MEASURE:

National Communications Commission & Ministry of Digital Affairs

5 DESCRIPTION OF THE MEASURE:

Measure:

Telecommunications Management Act

Description:

The Telecommunications Management Act was drafted with a view to facilitating the continued development of digital convergence and aligning with the trend of layered supervision. The Act was drawn up following a thorough analysis of the regulatory frameworks of advanced countries and regions. The Act officially came into effect on 1 July 2020 along with a three-year transition period, during which the old Telecommunications Act and the new Telecommunications Management Act co-existed.

As the Act aims to encourage competition and reduce entry barriers for telecommunications enterprises, a minimum degree of supervision has been adopted, thereby reducing unnecessary market interventions. After undertaking a thorough assessment of market conditions, specific remedies have also been introduced to promote fairness and competition.

The main principles of this act that differ from the previous regulatory framework are outlined below:

I. Lower market entry barriers

A registration system has been adopted to replace the outdated model of concession and licensing in order to lower the telecom market entry threshold and simplify the procedures.

II. Deregulation to promote competition

The classification of telecommunications has also been adjusted. Formerly, telecommunications were classified into Type I or Type II telecommunication enterprises, based on whether there was physical infrastructure in place, such as equipment, lines, etc. In the new Act, telecommunication services refer to public communication services provided through the public switched telecommunications network (PSTN), which is based on whether enterprises possess frequencies or numbers.

III. Obligations of operation

In order to protect the rights and interests of consumers and ensure the public interests, general obligations, special obligations and designated obligations have all been clearly assigned in accordance with various telecommunication services. In addition, in order to promote fair competition in the market, after undertaking a market competition assessment, the competent authority may determine that a certain enterprise be categorized as a significant market power (SMP). Consequently, an asymmetric framework shall be adopted to ensure that such enterprises are subject to regulation, while allowing smaller enterprises greater freedoms.

IV. Spectrum use and management

A spectrum sharing mechanism has been introduced to allow the leasing, lending and transfer of the spectrum in order to enhance its harmonization, efficiency and fairness of use.

V. Maintenance of infrastructure and cybersecurity

Obligations have been set for providers to protect the public telecommunications network, including the use of telecommunications equipment that meets security standards, the establishment of a security maintenance plan, and the definition of the scope of critical telecommunications infrastructure, etc., while cooperating with other ministries and agencies to ensure network maintenance and national security.

6 MEMBERS SPECIFICALLY AFFECTED, IF ANY:

None

7 TEXTS AVAILABLE FROM:

<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=K0060111>
