

Media & Entertainment - Taiwan

New commissioners consider cable broadband services options

Contributed by **Shay & Partners**

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Three new commissioners have been inaugurated into the National Communications Commission. Among other things, the new commissioners are charged with setting policy regarding the digitalisation of cable broadband services and legislative barriers to governmental bodies investing in telecommunications companies.

Digitalisation of cable broadband services

The NCC is charged with protecting consumer interests and promoting the healthy development of the communications industry. The new commissioners must decide on policy regarding:

- the licensing of mobile television;
- the reallocation of existing global system for mobile communications (GSM) frequencies; and
- the loosening of the rule barring political parties, government agencies and the military from investing in television media companies.

The most urgent issue to be addressed is the problem of foreign private equity funds controlling domestic multiple system operators (MSOs).

One of the main priorities set by the second-term commissioners was to increase the digitalisation rate for cable television from under 5% to 20%. However, the rate remains below 5% following this term. Currently, the largest MSOs are controlled by three large foreign private equity funds: Kbro (which is owned by the Carlyle Group), China Network System (owned by MBK Partners), and Taiwan Broadband Communications (owned by Macquarie). The NCC found that foreign private equities were detrimental to the development of cable television due to jumbo loans from local banks and the high ceiling of foreign investment (20% for direct investment and 60% for direct and indirect investment).

Failure to acquire cable systems due to outdated rules

TFN Media, a subsidiary of Taiwan Mobile and the second largest of mobile telecommunications company, is the fourth MSO in Taiwan. In 2009 Taiwan Mobile planned to spend NT\$56 billion to acquire Kbro, the largest MSO. Although the Fair Trade Commission (FTC) agreed the acquisition, the NCC rejected it on the grounds of the Taipei city government's involvement in Taiwan Mobile. The Taipei city government holds a 15% stake in Fubon Financial Holding Co, the parent company of Taiwan Mobile. According to Article 19 of the Cable Television Act, government agencies are barred from investing in media firms. Over the past year, Taiwan Mobile has been working hard with the Carlyle to find alternative options in order to complete the acquisition, but no breakthrough has been made because of an outdated law. Thus, an investment firm formed by the Tsai family (chairman and vice chairman of Fubon and Taiwan Mobile) has inked an agreement with Carlyle to purchase Kbro for NT\$68 billion in order to circumvent the legal restrictions. The deal would constitute the largest investment ever in the telecommunications industry in Asia. However, the acquisition must be reviewed by the Investment Commission of Ministry of Economic Affairs, the FTC and the NCC.

Reconsidering cable broadband policy

The investment ban stipulated in the Cable Television Act has become an obstacle for communications industries to achieving digital convergence between high-speed

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internet access, television and telecommunications (known as 'triple play'). To solve this dilemma, the NCC has proposed that the Executive Yuan allows the government indirectly to own as much as 10% of media companies. The plan requires further legislative approval. In addition, the government should be careful to review the investment plan provided by the private equity fund, especially investment targets related to infrastructure. The third-term NCC commissioners must address the issue of whether the government must reconsider its cable broadband policy and map out further detailed measures to regulate the private equity fund in order to ensure that any legislative changes have a positive effect and to promote the sound development of the cable industry.

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