

Telecommunications - Taiwan

MOD Formally Serves as Telecommunications Service

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On November 15 2007 the National Communications Commission (NCC) approved the codes of conduct, business terms and conditions, subscription contract and service tariff proposed by Chunghwa Telecom for the multimedia content transmission platform service (ie, multimedia-on-demand or MOD). This move formally declares that MOD services have been transformed from cable television services into telecommunications services. This means that Chunghwa Telecom will not provide television services under its own brand. Rather, the service is provided for users with a flat monthly fee who may select particular channels and the programme fees are collected by respective channel providers or by Chunghwa Telecom as an agent.

Subject to Article 12 of Regulations Governing the Tariff of Type I Telecommunications Business, the NCC approved the platform service charge as the primary fee of NT\$89 per month and no monthly fee for the set-top box. In order to allow public access to the channels, the NCC also requires Chunghwa Telecom to provide free channels, including not-for-profit channels without advertisements or licensing fee or decrypted terrestrial television channels, to their subscribers. In addition, the NCC requires Chunghwa Telecom to allow other internet service providers and local network operators to access the platform service of MOD under circumstances where it is technologically feasible.

Not long after its inspection of the network construction and technological specifications of Chunghwa Telecom's MOD service, the NCC retrieved an operational permit for the integrated fixed-network business cross-engaging in cable television service, as per the administrative settlement of May 28 2007 made between the NCC and Chunghwa Telecom. Under telecommunications law, the MOD service will preclude artificial obstacles designed for broadcasting services (eg, provisions to exclude political and military forces from operating broadcasting businesses).

This move is also confirmed by the new draft of the Law Governing Communications and Broadcasting, announced on November 9 2007. A new definition of 'communication service business' given by the draft document refers to "[in addition to radio and television business], the communications business that engages in transmitting video, sound, data and managerial-related services". Public comment has been severely critical towards such awkward ambiguity. It raises questions on how to draw a line between 'television services' and 'multimedia transmission services', categorized as a branch of communications services under the forthcoming draft for MOD services. Any distinction may be made based on consumer protection criteria. Such overlap will undoubtedly trigger more debate on the converging market competition between cable operators and telecommunications providers.

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