

## Telecommunications - Taiwan

### Ban on Investing in New WiMAX Operator to be Lifted

November 26 2008

The newly formed Appeal Committee of the National Communications Commission (NCC) recently revoked a decision of the previous NCC commissioners indicating that the ban imposed in March 2008 on Chunghwa Telecom acquiring shares in a new worldwide interoperability for microwave access (WiMAX) operator should be lifted (for further details please see "[NCC Rejects Chunghwa Telecom's Acquisition of New WiMAX Operator](#)"). This is the first case in which a resolution made by previous commissioners has been overturned.

The previous decision was made on the grounds of the fairness doctrine. It shook the telecommunications market. The former NCC commissioners believed that should Chunghwa Telecom, which failed in its bid for a WiMAX licence, invest in Global Mobile, one of the six winning bidders, this would constitute an injustice to the other losing bidders. It consequently disallowed the acquisition. The chair woman of Global Mobile, Rosemary Ho, appealed the decision to the Appeal Committee.

According to Article 15(3) of the Telecommunications Act, any merger or acquisition of shares between Type I telecommunications businesses must be approved by the regulator. In this case the Appeal Committee determined that Global Mobile did not qualify as a Type I telecommunications business before obtaining the formal license at the construction stage and therefore was not bound under the act.

This decision led Global Mobile to make an aggressive move in its planning on WiMAX business. Global Mobile intends to invite public bidding for the right to become vendors of equipment and base stations and hopes to launch the service in the second half of 2009, becoming the first WiMAX operator in northern Taiwan. The decision has also encouraged other companies hoping to penetrate the broadband wireless access market (eg, Chunghwa Telecom), many of which now believe that the WiMAX market will soon undergo major restructuring.

*For further information on this topic please contact [Arthur Shay](#) or [David CL Yeh](#) at Shay & Partners by telephone (+886 2 8773 3600) or by fax (+886 2 8773 3611) or by email ([arthur.shay@elitelaw.com](mailto:arthur.shay@elitelaw.com) or [david.yeh@elitelaw.com](mailto:david.yeh@elitelaw.com)).*

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at [www.iloinfo.com](http://www.iloinfo.com).

### Authors

[Arthur Shay](#)



[David CL Yeh](#)

