

## Telecommunications - Taiwan

NCC requests operators to guarantee internet bandwidths

Contributed by [Shay & Partners](#)

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On February 29 2011 the National Communications Commission (NCC) officially requested that telecommunications operators which provide internet services should guarantee the minimum speed and bandwidth set forth in their promotional programmes.

The NCC released its new requirement immediately after the Fair Trade Commission (FTC) imposed severe penalties on Chunghwa Telecom (the largest telecommunications operator in Taiwan) for a fibre-optic internet service advertisement. In response to pressure from Congress, the NCC also made further requests to the operators.

Chunghwa Telecom was fined NT\$5 million (US\$170,000) by the FTC for the promotion of the HiNet Fibre-Optic Era 50M package from May to November 2011 – this is the highest fine ever imposed on a telecommunications operator for false or misleading advertising. In its advertising campaign, Chunghwa Telecom claimed that it would take "only 12 minutes to download a DVD", but this was untrue and thus violated the requirements of the Fair Trade Law. According to the FTC, the fact that it has not previously penalised telecommunications operators for failure to deliver the "guaranteed bandwidth" did not mean that it will impose no penalties in future. In a circular issued to various operators, the FTC required that the conditions for achieving the claimed internet connection speed be disclosed in the advertisements.

Lawmakers put strong pressure on the NCC and Chunghwa Telecom, whose board of directors is controlled by the government. When answering questions during a committee session in the Legislative Yuan, Lu Hsueh-Chang, chairman of Chunghwa Telecom, explained that telecommunications network deployment plans are always based on a statistical forecast of demands and that a minimum guaranteed bandwidth cannot be set since it is impossible to predict when a large number of subscribers will surf the Internet at the same time.

Subsequently, the NCC immediately announced that all contents disclosed in the advertisements or promotional programmes of telecommunications operators are deemed part of the subscription contract between themselves and the users. Therefore, the operators must perform pursuant to the contract. The NCC will require all operators to modify their business bylaws and clearly adhere to the principle that advertisements should be true. The NCC requires all Type I telecommunications enterprises – whether fixed-line network or mobile operators – to disclose voluntarily the minimum internet connection speed on their official websites. From the second quarter of 2012 to the second quarter of 2013, the NCC will:

- test and evaluate mobile and fixed-line internet connection speeds; and
- require operators to modify their standard contracts for users and to sign contracts with users based on their actual available system capacity.

In this regard, the NCC has received a government grant of around US\$500,000 and will commission the Telecom Technology Centre to conduct tests of the operators' internet connection speeds.

Meanwhile, the NCC has requested mobile communications operators to offer a seven-day free trial of their mobile internet services so that users who have just entered into a new subscription contract may decide whether to continue with the subscription.

The NCC claims that its measures emulate the 'guaranteed bandwidths' regulation of the Office of Communications in the United Kingdom.

In February 2012, local consumer protection groups cited information from the Organisation of Economic Cooperation and Development and pointed out that the

Authors

[Arthur Shay](#)



[David CL Yeh](#)



average download speed via the networks in Taiwan was 13 megabits per second (Mbps) and the average upload speed was 2.7Mbps, both of which are a far cry from the average speed of 37.5Mbps. They also criticised the fact that in 2011 the internet connection speed in Taiwan ranked 33rd in the world, trailing behind Japan and Korea, while service charges were much higher than average and ranked second.

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

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