

Telecommunications - Taiwan

Liberalisation of telecommunications service sector between Taiwan and China

Contributed by **Shay & Partners**

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Taiwan and China entered into the Cross-Strait Agreement on Trade in Services on June 21 2013, under the Economic Cooperation Framework Agreement.

Regarding the mutual liberalisation of the telecommunications service sector under the agreement, Taiwan will open Type II telecommunications businesses (eg, store and forward network services, data exchange communications services and voice communications services) not generally used by ordinary citizens, but used only by special subscribers through leased closed networks to China. In spite of low sensitivity and information security concerns, Taiwan still imposed the following restrictions:

- Chinese investors should be listed telecommunications operators in China or China telecommunications operators listed overseas;
- the shareholding cap on China investors is 50%;
- no joint venture operation with any fixed network operator in Taiwan may be sought;
- the invested business should pass international information security standards (eg, the International Organisation for Standardisation and the International Electrotechnical Commission 27001 and 27011); and
- nothing involving personal data, sales departments, sales functions and systems may be relocated to China to alleviate concerns about possible monitoring or surveillance by China.

According to information released by the National Communications Commission (NCC), there were 21 operators of the three above-mentioned liberalised services in Taiwan as of May 31 2013 (accounting for around 4.6% of all Type II telecommunications enterprises) with an annual revenue of around NT\$356 million (accounting for around 0.7% of the total revenue of all Type II telecommunications enterprises), and around 72 relevant employees. According to the NCC's estimate, Taiwan does not allow Chinese workers to come to Taiwan under this agreement. Chinese investors do not have controlling power over the investment targets and the opening of the telecommunications market to Chinese investors has minimum impact on the local job market in Taiwan.

However, officials of the Investment Commission under the Ministry of Economic Affairs of Taiwan indicated that the Taiwan government will not allow Huawei to set up any branch office or subsidiary in Taiwan on the grounds of its "overly sensitive identity" in subsequent opening of trade in services to China.

Hsun Wei Technology Co Ltd, Huawei's exclusive general distributor in Taiwan, sells Huawei's mobile internet access cards, handsets and wireless network equipment, among other things. According to information from the Investment Commission, Hsun Wei, which was incorporated in Taiwan in 2006, was invested and incorporated in the name of a Singapore investor rather than any China investor. Huawei applied to the Investment Commission for the establishment of a branch office in Taiwan 2011. However, the application raised a lot of concerns due to national security and political factors, forcing Huawei to withdraw the application voluntarily (for further details please see "[NCC launches investigation into telecoms equipment made in China](#)"). Huawei has indicated in the past that it hoped to apply for the establishment of a subsidiary to accelerate its establishment of a research and development centre in Taiwan to tap into the business opportunities of 4G telecommunications equipment.

Under the same agreement China will open four additional services to Taiwanese investors in addition to part of the new World Trade Organisation commitments, including:

- internet service providers;

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- call centre business (with a 50% cap on shareholding and without geographic restrictions);
- one additional pilot city in Fujian Province for offshore call centre services (100% sole proprietorship allowed); and
- joint ventures established by Taiwanese investors in Fujian Province to operate electronic commerce (with a 55% cap on the shareholding of Taiwanese investors).

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