

Telecommunications - Taiwan

New NCC Commissioners Appointed

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Introduction

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Introduction

On July 18 2008 the Legislative Yuan approved the nominations for the next term commissioners of the National Communications Commission (NCC). Only one existing commissioner, Jimmy Hsieh, will remain in office; the six new members are all from the academic sphere. According to the NCC Organization Act, three out of the seven members serve a staggered term for two years, while the other four serve four-year terms. The new commissioners were inaugurated on August 1 2008.

At the end of 2007 some critical issues regarding the NCC Organization Act were resolved (for further details please see "[Congress Amends the Formation of National Communications Commission](#)"); however, several problematic issues concerning the organization and functions of the NCC remain to be dealt with. In particular, the eligibility restrictions for commissioners mean that many well-qualified professionals in the communications industry are reluctant to take up the office. Recently the NCC published proposed amendments to the act to resolve the outstanding issues. The three main aims of the draft amendments are as follows.

New Eligibility Restrictions for Commissioners

Pursuant to Article 6 of the act, any person who has occupied a position in a government agency during the three years prior to the assumption of office is not eligible to be nominated as an NCC commissioner. This limitation has prevented many senior officials with extensive and relevant expertise from being considered as commissioners. No such statutory limitations are imposed on any other central or local government organization in the form of a panel. Exempting senior experienced personnel from these eligibility restrictions could allow the prime minister a much wider choice when nominating new NCC commissioners.

Greater Delegation of NCC Administrative Work

Subject to Paragraph 2(5) of Article 8 of the act, all cases of publication announcements, permits and dispositions shall be reviewed in the NCC meetings. This provision has endangered the NCC's efficiency by forcing it to deal with thousands of non-contentious routine affairs. The proposed amendment would grant the NCC the power to delegate certain routine, regular and non-disputed affairs to the relevant division or bureau.

Clarification of NCC Appeal Procedure

In light of the framework for administrative appeals and proceedings, no statutory provision or court precedent clearly deals with decisions made by the independent regulator if a party disagrees with the result. In order to resolve the discrepancies in court practice, the relief procedure should be explicitly stipulated. Thus, the new amendments would allow anyone affected by and disagreed with an NCC decision to bring an administrative appeal directly to the High Administrative Court.

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