

TELECOMMUNICATIONS LAW

Telecommunications services on a global market are worth more than US\$ 1.5 trillion in revenue. Mobile services account for roughly 40% of this, while mobile subscribers worldwide currently outnumber the use of fixed telephone lines by more than two to one. Over the past decade, telecommunications market has witnessed far-reaching changes, with the introduction of competition into a sector that was once principally a monopoly.

Telecommunications sector has developed rapidly and remains very dynamic. Taking into account its current prosperity it is reasonable to think it will continue to grow intensively. Two major factors responsible for the growth of telecommunications industry so far are: use of modern technology and market competition. One of the products of modern technologies is optical fibers, which are being used as a medium of data transmission instead of using coaxial or twisted pair cables. Optical fibers can carry a high volume of data and are easier to maintain and install. Further, use of communication satellites makes the telecommunications a booming industry. In addition, the use of mobile network has a crucial role behind the growth of the sector. Important is also the fact that the telecommunications is a digitalised industry, with the use of ISDN (Inter Services Digital Network) enhancing the speed and quality of digital communication. The growth and development of modern technologies have led to their wide diffusion and application, thus increasing their economic and social impact.

The introduction of these advanced technologies made the telecommunications industry a competitive one, where a number of multinational companies have shown their interest to invest in the industry, which helped it to flourish significantly. As a consequence, the prices of telecommunications services are

reduced but, at the same time, the quality is improved.

For companies in and around the telecommunications field, the past few years have been a time of extraordinary change both technologically and also legally. The development of international trade agreements have fundamentally changed the environment in which businesses operate, creating risks, responsibilities, and opportunities that were not there before.

The technological progress in the sector needed to be followed up by a development in regulatory framework. Many international organisations, including World Trade Organisation, International Telecommunication Union, and also European Union, introduced certain regulations in the industry. The EU has led the way in implementing a modern, transparent and investor-friendly regulatory framework for telecommunications in all member states. This regulatory model is a major factor in bringing the benefits of 21st century technology to citizens and businesses of the region with its positive impact on investment and economic growth. Mobile phones have now achieved over 100% penetration in many countries of the region. Broadband, giving fast access to internet, communications and media services now have a very strong demand by consumers and business everywhere. The challenge for the prospering industry is to provide these services to meet the demand, and regulators have a key role to play, ensuring that telecommunications law is updated on a regular basis to keep up with the rapid developments in the sector.

The Italian telecommunications market evolved significantly in the last years, in terms of general turnover and variety of services made available to customers. As a general consideration, mobile and personal services on the one side and broadband Internet on the other side, led the evolution, in line with the European market. However, the growing diffusion of smart-phones and next-generation handsets is rapidly shifting the attention of users and operators towards broadband wireless and mobile Internet access and contents made available thereby.

Cugia Cuomo & Associati is an independent Italian law firm which offers premium advice on various practice areas including TMT (Telecommunications Media & Technology), energy and corporate/M&A. In particular, the firm assists several top-tier Italian operators with the relevant regulatory, licensing, competition and contractual issues arising from the offering of services (and related contents) in the area of Telecommunications Law, with an eye to the upcoming LTE revolution and IP-based mobile networks, on the service side, and to the web 2.0/3.0 and user-created contents issues, on the content/privacy side.

Undoubtedly, the telecommunications area of practice is characterized by the unrelenting impulse of technological innovation and, therefore, legal consultants are required and expected to provide the client with cutting edge solutions, always in line with the ever evolving business scenario. Cugia Cuomo & Associati boasts a unique feature in equipping the client with its business and technical understanding of the market, by providing ready-to-go legal instruments and solutions.

Fabrizio Cugia di Sant'Orsola, founding partner at the firm, said: "Our professionals' curriculum presents, inter alia, various in house counsel experiences in the field, thus guaranteeing the client that, whatever the issue, the legal solution will be simple, direct and in the uncompromising pursuit of our client's expected results."

Under Italian Law, foreign telecommunications operators are free to establish and offer their services in Italy, in accordance with the fundamental European

Fabrizio Cugia di Sant'Orsola - Partner
Cugia Cuomo & Associati
+39 06 96038103
f.cugia@cugiacuomo.it

ITALY
CUGIA CUOMO & ASSOCIATI
STUDIO LEGALE

Mitchell Broner Squire - Associate
+39 06 96038105
m.squire@cugiacuomo.it



principles of market freedom. However, the general nation-wide licensing pattern applies and several provisions are specifically enforced with regard to the identification and registration of the foreign corporate entity concerned as well as to the type of services to be offered thereby within the Italian territory. Cugia Cuomo & Associati is capable of providing its international clients with a transparent and unobtrusive assistance in obtaining the necessary administrative titles and licences.

Mitchell Broner Squire, associate of the firm, added: "Our firm offers a valuable regulatory update service to ensure its international clients that their Italian activity will always be fully compliant with the continually updated legislative and regulatory framework."

The Italian telecommunications sector is most probably bound to stage a material market revolution in the near future, under both the network and, consequently, service point of view. In this sense, three major network operators have recently announced their intention to set-up a joint venture with a view to develop an autonomous NGA fiber optics network, completely separated from the copper transport infrastructure of the incumbent, Telecom Italia S.p.A. This ambitious project will surely offer valuable opportunities for foreign investors and operators, willing to exploit the Italian market.

Taiwan has one of the most developed telecommunications sectors in Asia, with specializations in cable television, broadband technology, and the online gaming industry, all attracting foreign attention. These are resources that European companies are yet to exploit, with the US still making the lion's share of investment into the country.

The Telecoms industry is dynamic and progressive and needs to be understood and monitored closely by knowledgeable law professionals.

"Mobile TV, or Mobile Multimedia as it is otherwise known, is a rapidly rising global trend that will inevitably be available in Taiwan very soon," said Arthur Shay, a Partner heading communications law practice in Shay & Partners who has been selected as leading lawyer of Information Technology and Telecommunications in 2009 by Asia Law & Practice.

Taiwan enjoys 100% penetration rate in mobile communications and has been a strong manufacturing base for smart phone gear and mobile internet devices. Shay & Partners are enthusiastically working on the introduction of mobile TV into Taiwan and the strategy planning required for its regulatory compliance.

Shay & Partners is well known in Taiwan and East Asia for its highly specialised outfit for telecommunications, Media and IT. The firm has found notoriety acting for multinationals and public sector entities. They have helped clients, both domestic and international, to overcome many hurdles to introduce new services into Taiwan. More specifically, they have been instrumental to the liberalisation of Taiwan's telecom and media industry.

For example, in the 1990s, the firm assisted the first foreign enterprise to receive an international submarine cable landing license from the telecom authority and paved the way for further broadband services.

The members of the firm brought together various international cable TV operators, in 2002, to form an industry association, the Cable Broadband Institute in Taiwan, and has assisted that entity in successfully lobbying the Government Information Office (the media authority), Executive Yuan and Legislative Yuan for amendments to the Cable Broadcasting Law to create a

TAIWAN

Arthur Shay
Partner
Shay & Partners
+886-2-8773-3600
arthur@elitelaw.com

more favorable competitive environment for the entire industry.

As Taiwan's premier legal providers in the telecom and media fields, they were regularly retained by a number of governmental agencies, including Taiwan's Directorate General of Telecommunications, Ministry of Transportation and Communications, Council of Economic Planning and Development, and Government Information Office of the Executive Yuan, to provide legal opinions and assistance with the drafting of legislation.

For example, it was Shay & Partners who advised explicitly on the regulatory and legal issues that would arise from a creative submarine cable proposal. The submarine cable system would be built between Taiwan and the fast-growing Chinese economy. Because the two economic entities are in such close proximity to one another, it has made Taiwan a crucial location for international venture capital operations to connect the two.

As an active member of Globalaw, a non-exclusive worldwide network of 91 independent law firms with over 5,000 lawyers in 165 cities, Shay & Partners can offer an international legal service to clients.

The Mexican telecommunications industry is regulated by the Federal Telecommunications Law enacted in 1995. The law does not foresee concession of services; instead it regulates licences for public telecommunication networks. It means, in principle, that a holder of a licence for public telecommunication networks may be able to render any services technically feasible.

Mexican authorities have taken specific measures aimed to satisfy the current needs of telecommunications industry. The Ministry of Communications and Transportation is about to begin new bidding processes to grant concession titles allowing the operation and installation of radio broadcasting stations. These processes constitute an entrance for new competitors in the market, and an attractive option for new investors in the industry. Recently, Mexican authorities determined new lower interconnection fees, which will significantly increase competitiveness, allowing the industry to grow and overcome recession. Additionally, the Federal Telecommunications Commission has recently issued a resolution, which provides more efficient use of the radio electric spectrum. This measure always constitutes an increase in competitiveness and an economic advantage for the whole industry.

Lopez Velarde, Heftye y Soria, S.C. (LVHS) is a Mexican law firm focused on providing services in specialist practice areas. The telecommunications, media and entertainment group in the firm is led by partners Gerardo Soria and Mario Piana.

"We have represented domestic and foreign companies engaged in the provision of a broad range of telecommunications services in Mexico, including, among others, local and long distance services, satellite services, cable television, broadcasting, and wireless communication services. We have also advised companies in the implementation and operation of diverse telecommunications networks and services, and in the negotiation, application and attainment of concessions, permits and authorisations for all sorts of telephony services," said Mr. Soria.

LVHS holds a leading position in the legal telecommunications sector in Mexico that allows the firm to negotiate for its clients the terms, conditions and obligations that they have with other national and international companies,

MEXICO

Lopez Velarde, Heftye y Soria, S.C.
Gerardo Soria - Partner
+ 52 55 3685 3340
gsoria@lvhs.com.mx



carriers and authorities.

Mr. Soria added: "Members of our firm have actively participated in the drafting and lobbying of legal initiatives for the radio, television and telecom industries, contributing with new concepts and innovations in the regulatory frame, reflective of the new technologies and convergence in telecommunication services."

Furthermore, as a value added service, the telecommunications team updates its clients with any amendments in law that may affect their legal situation and obligations, and develops before the authorities all procedures required to keep their concessions, permits and approvals in force and accordant to all the applicable provisions.

In addition to the daily services, LVHS is currently advising one of the major broadcasting companies in Mexico to draft a new federal telecommunications, radio and television law, that is going to be presented in the next regular sessions period of the Congress, which starts September 1, 2010.

The telecommunications industry seems to be one of those which are very likely to grow quickly due to the technological convergence of the services provided by the telecommunications companies, as well as the introduction of new and sophisticated technologies. Despite the global economic crisis, still taking its toll in many countries, the Mexican telecommunications and broadcasting market will definitely see a bright future.