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Japan’s Market Landscape

Since 2013, Japan’s telecom market size has remained stable in JPY terms

- Revenues stable between ¥ 13.5tn and ¥14.5tn
- 2012 saw total industry revenues fall below ¥13t
Japan’s Market Landscape

Mobile phone market dominated by three mobile network operators (MNOs). NTT, Softbank, and KDDI

- Each also has a growing virtual mobile network operator (VMNO)
Japan’s Telecom Regulation

**Key Telecoms Legislation:**


  **Regulatory Guidelines**
  - Cabinet Order for Enforcement of the Telecommunications Business Act
  - Regulations for Enforcement of the Telecommunications Business Act
  - Rules for Telecommunications Business Accounting: Telecoms industry accounting standards

  **International Standards**
  - Technical barriers to trade standards issued by the International Telecommunication Union (ITU), generally followed, except when would be ineffective or inappropriate for the fulfilment of legitimate objectives.
Chapter 8 – Sub-Section 4

EPA Chapter 8 covers trade in services, investment and e-commerce

Treaty language on the telecommunications industry is the content of Sub-Section 4. This includes:

- Public Telecommunications Services
- Public Telecommunications Transport Networks
- Essential Facilities
- End-Users
EU-Japan EPA Treaty Coverage

8.41: Telecoms Market Coverage

EPA 8.41 outlines the regulatory framework for telecommunications services affecting trade in telecommunications services

Except:

- Broadcasting services
- Editorial Content Services
8.42: Telecoms Market Coverage

EPA 8.42 establishes coverage for a range of telecommunications services and parties to services. This includes:

- **Facilities**
  - Essential Facilities
  - Associated Facilities

- **Parties**
  - End-Users
  - Major Suppliers

- **Networks**
  - Leased Circuits
  - Public Telecommunications Services
  - Public Telecommunications Transport Networks
Sub-Section 4 Protections

Treaty language in Sub-Section 4 includes a number of protections that apply to the telecoms industry:

**Number Portability**

- EPA 8.45: Establishes provision of number portability for mobile services offered by that suppliers of public telecommunications transport services.

**Use of Network Facilities and Interconnection**

- EPA 8.47(1): Use of network facilities and interconnection to be agreed on basis of commercial negotiation between suppliers.
- EPA 8.47(2): Regulatory authorities have power to require a supplier of public telecom transport networks or services to provide interconnection.

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Sub-Section 4 Protections

Anti-Competitive Practices 1

EPA 8.48(1): Protection from **bundling** & **refusal to supply**. Major suppliers prevented anti-competitive practices, whether alone or in-group. Specifically, this includes:

- Anti-competitive cross-subsidisation
- Use of information obtained from competitors with anti-competitive results
- Not making available technical information about essential facilities and commercially relevant information necessary to provide services.
EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Anti-Competitive Practices 2

EPA 8.48(2): Protection from refusal to supply: Regulatory authorities empowered to require major suppliers to accord to suppliers of public telecoms transport networks or services treatment no less favourable than affiliates or subsidiaries when it comes to:

- Availability of like ad rates for telecommunications services
- Availability of technical interfaces
Sub-Section 4 Protections

Telecommunications Networks and Services Licencing

- EPA 8.51 (1): Simple registration (or notification). Prior explicit decision by regulatory authorities not required.

- EPA 8.51 (2 to 4) Licences for frequencies may be required. Terms, conditions, and licencing to be made public. Decisions to be made in a reasonable period of time and explained in writing.

Transparency

- EPA 8.53: Measures relating to access and use of public telecoms transport networks and services made publicly available. Includes:
  - Tariffs and other terms and conditions of service.
  - Specifications of technical interfaces
  - Conditions for attachment of equipment to networks.
  - Permits, registrations or licensing requirements.
EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Dispute Resolution 1

- EPA 8.54 (1 and 2): Suppliers of public telecoms transport networks or services shall have timely recourse to regulatory authorities to resolve disputes.
  - Or written explanation should authorities decline to act.

- EPA 8.54(3): Dispute resolution decisions made publicly available to the public, respecting business confidentiality.

- EPA 8.54(4): Public telecommunications transport networks or services suppliers aggrieved by regulatory decision may obtain review of decision by either
  - Regulatory authority or ...
  - An independent appeal body (which may or may not be a judicial authority).
EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Dispute Resolution 2

• EPA 8.54(5): Further review of all decisions by an independent judicial authority,
  • Except if the supplier has accepted a procedure where the regulatory authority or independent appeal body issues a final decision.

• EPA 8.54(6): An application for review by an appeal body or a judicial authority does not constitute grounds for non-compliance with the determination or decision of the regulatory authority.
EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

International Mobile Roaming

EPA 8.57: Establishes framework for international mobile roaming between Japan and the EU. This includes:

• Encouraging enhancement of transparency and competition on international mobile roaming rates and technological alternatives to roaming services.

• Encouraging suppliers to make information on retail rates for international mobile roaming services for voice, data and text messages publicly-available.

However, the EU-Japan EPA does not:

• Regulate rates or conditions for mobile roaming services.

• Apply to intra-European Union roaming services
EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Non-Discrimination 1

• EPA 8.44(1): Provides for service-supplier non-discrimination in terms of access to and use of public telecommunications transport networks and services.

• EPA 8.44(2): Service-supplier non-discrimination includes private leased circuits, terminal and network-interface equipment, necessary to supply services, and use of necessary operating protocols.

• EPA 8.44(3): Service-supplier non-discrimination includes intra-corporate communications of service suppliers, as well as access to information contained in databases in machine-readable form.
Sub-Section 4 Protections

Non-Discrimination 2

EPA 8.44(5): No condition imposed on access other than necessary to:
- Safeguard public service responsibilities of public suppliers, transport networks and services, in particular their ability to make their networks or services available to the general public.
- Protect the technical integrity of public telecoms transport networks or services.

EPA 8.44(6): Conditions can include:
- Restrictions on resale or shared use of services.
- Requirement to use specified technical interfaces.
- Inter-operability requirements for public telecoms transport services.
- Restrictions on inter-connection of private leased or owned circuits with public telecoms transport networks or services.
- Notification, permit, registration and licensing.
EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Non-Discrimination 3

EPA 8.46: Establishes non-discrimination if and when a supplier of public telecommunications transport services is required to offer its public telecommunications transport services for resale.
Summary

In Conclusion....

• Japan’s telecommunications market is generally stable. Dominated by three major MNOs, each with an associated VMNOs.

• Japan’s telecoms market is regulated by the Telecommunications Business Act, as well as the associated regulatory guidelines and accounting standards.

• Th EU-Japan EPA grants coverage to facilities, parties and networks.

• The EPA guarantees access, number-portability, transparency and non-discrimination.

• The EPA also provides a framework for dispute resolution.
Thank you for your attention

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QUESTIONS ?

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