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MIC Minister Rules on Interconnection between JCI and NTT DoCoMo

The Minister of Internal Affairs and Communications today ruled on the interconnection between Japan Communications Inc. (JCI) and NTT DoCoMo (DoCoMo), as requested by JCI on July 9, 2007 under Article 35 Paragraph 3 of the Telecommunications Business Law.

1. Background and Statement of Facts

Upon establishment in 1996, JCI developed, in the form of its Enterprise Mobile Phone service, the business model that would later become known as MVNO¹. The business grew rapidly, by the end of fiscal year 2002 (JCI's sixth year of business), JCI achieved sales of 10.7 billion yen. However, the service was centered on the provision of voice, meaning it was in effect similar to a simple reseller arrangement, and therefore profit margins were very low. Given this, JCI partnered with PHS service provider DDI Pocket Inc. (now WILLCOM Inc.) and in 2001 launched the world's first “Data Communications MVNO” (Data MVNO). This Data MVNO saw an interconnection created between JCI and DDI Pocket. This interconnection employs a billing structure based on total bandwidth, allowing JCI to create services that were differentiated both on price and technology. Since then, JCI has been providing data communication services over PHS. The Data MVNO model differs from the quasi-reseller model voice MVNOs as it allows unique and independent services to be offered. Further, by enabling more efficient usage of provisioned bandwidth, the Data MVNO offers vastly improved return over a voice MVNO.

Given this background, JCI had intended to provide services using third generation (3G) mobile phone networks and, in turn, JCI requested each mobile carrier to provide access to their networks. However, as this yielded no progress, JCI then formally requested negotiations for a connection with DoCoMo in August 2006. On November 29, 2006, JCI and DoCoMo opened negotiations for interconnection as defined in the Telecommunications Business Law. Regrettably, discussions were not concluded within the time limits set out in DoCoMo's terms and conditions for connection and, on July 9, 2007, JCI was forced to request arbitration from the Minister of Internal Affairs and Communications under the provisions of Article 35, Paragraph 3 of the Telecommunications Business Law. On September 21, the Telecommunications Dispute Council began deliberations on

¹ An MVNO (Mobile Virtual Network Operator) is a mobile telecommunications provider that provides a range of services on the wireless network of an incumbent mobile telecommunications provider. For details, see “Guidelines Concerning Applications of the Telecommunications Business Law and the Radio Law Pertaining to Mobile Virtual Network Operators (MVNOs)” (Ministry of Internal Affairs and Communications, February 13, 2007).

the MIC Minister's arbitration proposal. Concurrent to hearing opinions, the Dispute Council met to deliberate on five occasions. On November 22, 2007, the Telecommunications Dispute Council reported its findings and recommendations to the MIC Minister.

Having received this report, the Minister announced his findings today.

Upon hearing the result of the arbitration, JCI Founder and CEO Frank Seiji Sanda, D. Eng., said, "The MVNO market is predicted to grow to a 2 trillion yen industry by 2015² and, as the pioneer MVNO, JCI will develop and deliver new wireless data products and services to ensure the continued liberalization of the market. Given the enormity of this market, liberalization will depend on new entrants, from not only the communications field, but also from a wide variety of industries. To achieve this, interconnection terms, such as pricing, must be made public; interconnection procedures must be transparent; pricing must be fair and equitable; and post-connection conditions must be clear and visible. I want the mobile phone companies that JCI will soon interconnect with to look at the results and be pleased they worked with us. That is the responsibility that JCI must uphold."

2. JCI's Position

While the specific details of the items JCI request arbitration on can be found in the Arbitration Report, JCI asserts the following points with respect to MVNOs, and it is on the following points that JCI sought arbitration.

(1) MVNOs can determine services they provide

MVNOs seek to develop and to provide a range of original data communications services that the existing operators have not yet implemented. Accordingly, MVNOs must possess the right to determine the services that they provide to their customers.

(2) MVNOs have full and independent control over their pricing structures

As MVNOs provide services directly to their customers, as such they must necessarily possess the right to determine the prices they charge for those services.

(3) MVNOs must be charged connection fees on an end-to-end basis

The question of how much services will ultimately cost is of the utmost importance for customers. In order to set total product costs, end-to-end connection charges should be provided. (Cellular phone carriers already provide end-to-end fees in their service agreements for voice-communication, but not for packet communication.)

(4) Connection fees should be billed based on total bandwidth³

As billing based on bandwidth is typical to data communication, and to facilitate efficient use of frequency, connections should be charged based on total bandwidth.

(5) The development costs and timetable for an interconnection must be reasonable and logical

² Source: Report of the Ministry of Internal Affairs and Communications "Mobile Business Study Group", Reference Material A (published on September 20, 2007)

³ "Billing based on total bandwidth" refers to a billing method whereby fees between the telecommunications providers are fixed based on the total bandwidth of the communications line that comprises the interconnection.

In data communication today, where IP networks are standard, in order for JCI to provide its own IP network services or a non-IP network, requires interconnection not at the IP Layer (Layer 3) but at Layer 2. As Layer 2 Connections are a normalized standard, all development costs and timeframes relating to the establishing the interconnection must be reasonable and logical.

Of the above, the MIC has found in favor of JCI on points (2), (3) and (4) above. No ruling was given on (1) above, as MIC took the position that this point, while valid, should not be included in the arbitration.

Further, JCI understands that point (5) above was not included in the scope of the arbitration, as negotiations between JCI and DoCoMo stalled on the issue of end-to-end fees and as such DoCoMo never announced their cost structure. However, the Telecommunications Dispute Committee has advised the MIC to promptly and appropriately examine all issues that will ensure smooth negotiations and to plan for their adoption. Therefore, we believe that constructive negotiations will proceed in a timely fashion.

3. Impact on Future Earnings

Today's ruling is a significant step towards JCI offering MVNO services on DoCoMo's 3G network, which is the most advanced network of its kind in the world. Once this service commences, it will have considerable impact on JCI's medium-term earnings. However, the scale and timing of this impact are unclear at the present time.

About JCI

Japan Communications Inc. (JCI) was the first to introduce the Mobile Virtual Network Operator (MVNO) business model to the world in 1996. JCI, a publicly listed company in Japan (JPN-9424), is the first and the largest data MVNO in the world. It has pioneered wireless data solutions, which address particular needs of specific customers both in consumer and enterprise markets. Operating as an integrator of wireless and fixed network services with information technology, it is the leading provider of end-to-end wireless data solutions.

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