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Predatory Practice Claim Against NTT Docomo Filed With Government of Japan

Today, Japan Communications Inc. (hereafter “JCI”) submitted a claim to the Ministry of Internal Affairs and Communications (hereafter “MIC”) that the prices offered to certain enterprise customers by NTT Docomo, Inc. (hereafter “NTT Docomo”) were below cost, constituting illegal activity, commonly known as “dumping”. This submission was made based on Article 172 of the Telecommunications Business Law, following the “Guidelines for Promotion of Competition in the Telecommunications Business Field” by the Japan Fair Trade Commission (hereafter “FTC-J”) and MIC.

1. Background

JCI, in its announcement of the third quarter financial performance on February 4, 2010, stated that its results were materially impacted by illegal business activities of a competing mobile operator. NTT Docomo was not named at that time. Since learning of these incidents, JCI has repeatedly discussed the illegal practices with highest level of management in NTT Docomo. In these discussions, concrete evidence was presented to NTT Docomo management, including its Chief Executive, however to date these practices have not abated and continue. NTT Docomo, based on its market share, has been designated as a Dominant Carrier under the Telecommunications Business Law. This designation requires NTT Docomo, by law, to conduct business at a higher standard of fair business practice. Therefore, issues involving fair competition by NTT Docomo can only be resolved by direct intervention by government authorities, namely MIC and FTC-J. JCI, as a smaller new entrant into this market, cannot be expected to affect resolution to an issue of this nature involving a Dominant Carrier.

JCI conducts business as a Mobile Virtual Network Operator (MVNO) , leasing NTT docomo’s network infrastructure. An MVNO business model utilizing an Inter-connection Tariff was introduced for the first time in the world in 2008 in Japan by the MIC. This has made the mobile wireless market in Japan the most free and most highly deregulated environment in the world. Initially, NTT Docomo was unresponsive to JCI’s request for Inter-connection under Telecommunication Law. For two years, JCI pursued

implementation of its legal rights without substantive cooperation. In 2007, JCI formally requested assistance from the MIC, similar to Government intervention for MCI in the AT&T interconnection in the United States many years ago. In 2009, JCI achieved physical Inter-connection to the NTT Docomo network, when the MIC mandated cooperation issuing an ultimatum. This arrangement includes Inter-connection Tariff which is cost plus a “reasonable profit” approved by MIC and the freedom to introduce appropriate terminal devices without NTT Docomo permission.

2.Outline of the Claim

JCI notified FTC-J and submitted a formal claim to MIC with necessary evidence that the sales practices of NTT Docomo are in violation of the Telecommunications Business Law. Specifically the “Guidelines for Promotion of Competition in the Telecommunications Business Field”, which stipulate that the MIC and FTC-J work in concert to resolve issues associated with fair competition in the telecom industry. The specific illustrations of these violations are not available for disclosure as contractual confidentiality agreement between JCI and NTT Docomo restricts discussion.

3. JCI Prospective

Following JCI's lead, since 2008, over 50 new MVNOs have been introduced, in various forms, in this new environment. These are various corporations and start-ups who envision a new opportunity through the adoption of the MVNO business model. We believe it is extremely important, both to the industry and to the Japanese economy, for the Government to demonstrate maximum diligence to sustain a balanced competitive environment. One would be hard pressed to identify a market opportunity with as much potential as the MVNO market in Japan. The MIC and FTC-J are challenged to maintaining at least a level playing field to encourage growth in the wireless telecommunication market to contribute to the maintenance of the Japan's global economic position.

As was with the case with MCI and AT&T in the United States, JCI believes many confrontations with NTT will be necessary to properly implement Japanese Telecommunication Law to impact Society. Change to an institution like NTT does not come “overnight”. JCI does not seek confrontation but understands its responsibility to society to pursue necessary course of action, providing leadership which materially changes the market. Start ups and existing companies seeking new business opportunities need to be given a chance to participate in an industry, heretofore not accessible. The invitation of the new participants and their success will define the outcome of the efforts the Japanese Government in the form of global leadership of MIC in introducing these changes resulting in repositioning of the Japanese economy for the next generation.

JCI believes that MIC and FTC-J will find, following a thorough investigation of this matter

that NTT Docomo is in violation of Telecom Business Law. We further believe that as it did with the mandate in sustaining JCI position for Interconnection to NTT Docomo in 2008 that it is in the best interest of the industry to take proactive action to restrain uncompetitive activity of the Dominant players in the market.

4. Impact on JCI Future Business Performance

As long as special confidential pricing arrangements with enterprise customers are not regulated by the government, it will be very difficult to prevent illegal and unfair pricing practices by Dominant Carriers. For this reason JCI has elected for the time being to focus its efforts on the consumer market where the manipulation of the tariff is difficult for the Dominant Carriers. Tariff adjustments in the consumer market cannot just be restricted to specific customers so such changes will impact the entire revenue base at the P/L level. Because of this, the carriers will not be encouraged to touch consumer tariff. While it is difficult for a small company to compete with NTT Docomo's financial and Dominant Carrier presence in the market, higher governmental vigilance will at least level the field in regards to pricing.

JCI business model is predicated on leveraging its know-how to introduce products and services that the carriers cannot provide to the market. JCI to date has never competed on price. We believe that value added services such as "pay as you go" Doccica, which is a multi-network (WiFi and 3G) time based charge product, is necessary in the wireless data market. JCI will for the foreseeable future go head-to-head with NTT Docomo in providing lowest cost, highest value products to the market. On March 17th, JCI introduced "b-mobile SIM" which is a SIM only flat rate product at a price which is 60% lower than NTT Docomo's flat rate data plan. We are able to do this only because we have the capability to control traffic to manage utilization to cost justify this product.

JCI will access the global manufacturing and software community to bring products that the Dominant Carriers cannot provide. Our know-how which integrates the technology and culture of both the telecommunication and computer industries will enable introduction of products which transcends the capability of the competition. This effort will be enhanced by the recent introduction of similar network capabilities in the US and soon to be available capabilities in the European Community. Multi-network and international integrated service capabilities will categorically define competitive advantage for JCI over the Dominant Carriers in Japan.

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 a telecommunications carrier, JCI integrates wireless and fixed network services with information technology. JCI provides end-to-end wireless data solutions utilizing NTT docomo, Inc.'s HSDPA and Willcom Inc.'s PHS networks as well as a multitude of fixed-line carrier networks.

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