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Notification of Answer for Predatory Practice Claim Against NTT Docomo Filed With Government of Japan, and Request Administrative Information of Government

On June 21, 2010, Japan Communications Inc. (JCI) received the response of the Ministry of Internal Affairs and Communications (hereafter “MIC”, response dated June 18, 2010) to the Predatory Practices Claim JCI filed against NTT Docomo, Inc. (NTT docomo) on April 19, 2010. However, as the response does not provide clear judgment, JCI immediately requested disclosure of all of MIC’s administrative information relating to this issue .

JCI filed the claim with MIC on April 19, 2010 under Article 172 of the Telecommunications Business Act in conformity with the “Guidelines for Promotion of Competition in the Telecommunications Business Field” set by MIC and the Fair Trade Commission, claiming that NTT docomo offered enterprise customers prices discounted far below docomo’s MVNO interconnection tariff, wholesale price and highly likely below docomo’s cost.

In its June 18, 2010 response, MIC stated that “after comparing the proposed price (from NTT Docomo to enterprise customers) to the interconnection tariff and wholesale price, we could not categorically state that the former was ‘overly discounted’”, and that “we could not categorically determine, thus state that the proposed price (from NTT docomo to enterprise customers) was ‘considerably lower’ than the concerned cost.”

It is difficult to understand why MIC cannot reach a clear judgment on this issue as, the comparison of NTT docomo’s one-to-one pricing for enterprise customers with their MVNO interconnection tariff, and the comparison of NTT docomo’s one-to-one pricing for enterprise customers with their costs is a deterministic calculation. Accordingly, on June 21, 2010, JCI filed a request to MIC today for the disclosure of all administrative information, including all meeting minutes and documents, regarding the

decisions that were made on this issue.

Under the Telecommunications Business Law, MIC has a legal duty to fully understand NTT docomo's exact costs. It is MIC's responsibility to order changes to the Interconnection tariff of carriers subject to dominant regulation (such as NTT docomo and NTT East/West) if those terms are "above cost plus reasonable profit under an efficient management". This obligation is especially heightened as definitive evidence of the prices that NTT Docomo has offered enterprise customers was provided in the filed claim.

MIC is in a position to clearly judge if NTT Docomo's proposed prices to enterprise customers are lower than the interconnection wholesale price set by NTT docomo, and if NTT docomo's proposed prices to enterprise customers are lower than its cost.

In the telecommunications business field, MIC's most important role is to maintain a fair competitive environment in order to protect consumers and to promote industry growth. In light of MIC's response to our claim, JCI has no alternative but to conclude that MIC is lacking in fulfilling this obligation.

Some 70 MVNO's have been founded over the past two years. It is essential that these MVNOs and MNOs compete with each other in a fair competitive environment. MIC has received a mandate from the Dispute Resolution Committee to "act accordingly, based on timely and appropriate considerations, to ensure smooth negotiation between MVNOs and MNOs on issues such as calculations for interconnection fees", when it rendered its opinion in favor of an interconnection dispute between NTT Docomo and JCI in 2007.

Telecommunications is by its nature an industry susceptible to monopolistic manipulation of pricing by dominant players to deter competition. MIC is clearly lacking in its responsibility to ensure a fair competitive environment for MNOs and MVNOs, in failing to provide clear judgement on this dispute.

Regarding MIC's response, Dr. Frank Seiji Sanda, JCI Founder and CEO, said:

"JCI pioneered the MVNO business model, and has promoted it for the past 15 years. Now, many new MVNOs have entered or seeking to enter the market. If problems like this are left unresolved and a fair competitive environment is not maintained, the growth of the telecommunications industry as a whole in Japan is put at risk. My determination to resolve this problem will not change as the creation of an open environment by introduction of the new business model, MVNO was created together with the support and mandate of MIC. I look forward to the even greater expansion of MVNOs market in cooperation with MIC."

As JCI's stance regarding NTT Docomo's predatory practices remains unchanged, we will continue to use all means available to completely resolve this issue.

Documents for Reference:

For more information, please see the following release:

“Predatory Practice Claim Against NTT Docomo Filed With Government of Japan” dated April 19, 2010.

http://www.j-com.co.jp/ir/pdf/press_100419_ENG.pdf