

## Chapter 14

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# Telecommunications policy in Japan

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The reform of the Japanese telecommunications policy began in 1948 with the reorganization of the Ministry of Communications into the Ministry of Postal Services and the Ministry of Telecommunications. This bifurcation meant that the telecommunications industry no longer would be burdened with covering the deficits of the postal system.

The second stage of reform involved three laws: the Radio Wave Law, the Broadcasting Law, and the Radio Regulatory Commission Law. All were enacted in 1950. To diversify journalism, the use of radio waves by the private sector was encouraged. The first Japanese private radio broadcaster was licensed in the same year the law was established, and by 1953 private television broadcasters also emerged. In the four decades since, private broadcasters have been vigorously competing amongst themselves and with NHK, the public broadcasting system, which has a completely different source of revenue for its operation.

NHK presently consists of two television, two radio, and one FM nationwide networks, all covering 99 percent of Japan. One hundred and thirty-seven private broadcasters have formed five television networks, one radio network covers 90 percent of Japan, and one FM network covers a slightly smaller area. NHK is now experimenting with the operation of two DBS (Directed Broadcast Satellite) channels. The private sector is planning to increase its one DBS channel to three by the summer of 1990. Experimental distribution by DBS of High Definition Television (HDTV), thought to be the television of the future, is also in process. It is clear that Japanese broadcasting has achieved, both in quantity and quality, the highest level of development. The most important reason for this, bar none, was that the framework of the 1950 law provided the basis for a competitive environment.

The third stage of reform, different from the second, had to do with monopoly of NTT. Three laws enacted in 1953, the Wire Telecom-

munications Law, the Public Telecommunications Law, and the Nippon Telegraph and Telephone Public Corporation Law, were intended to change the government monopolies to public monopolies. The laws not only denied new entrants to the telecommunications business, but also restricted the establishment of private networks or in-house communication. For example, the microwave circuits necessary for transmission of television programs planned by broadcasters were not approved, and circuit services had to be obtained from NTT in 1953. According to the Wire Broadcasting and Telephone Law of 1957, small-scale telephone networks were approved for agricultural cooperatives, but they did not become telephone operators due to limitations of NTT network connections.

The strictness with which these policies were applied is worth noting. As an example, in the spring of 1959, a Pan Am staff official visited the Ministry of Posts and Telecommunications to request a direct radio channel between Pan Am pilots and dispatchers in order to ease the newly introduced jetliner's operations. At the time I was a junior staff member of the Aeronautical Radio Section of the Radio Regulatory Bureau of the Ministry. I made an intensive effort to establish a non-profit organization like Airlink of the United States to handle such radio circuits for foreign carriers. However, the Ministry's final decision was to nominate the reluctant KDD, the international carrier, as a radio circuit operator in the name of monopoly policy. It was at that moment that I made up my mind that a Telecommunications Business Law was necessary, and that moment marked the beginning of my twenty-six years of personal struggle with telecommunications monopoly.

Another example of the carrying out of the monopoly laws has its setting in Gion, the oldest and most classical center of Geisha houses in Kyoto. In the spring of 1963, the General Secretary of the Gion Association came to my office where I was the chief of the Wire Telecommunications Section of the Regional Radio Regulatory Bureau. The Gion Association has a long history, first being approved several hundred years ago by the government of the Tokugawa Shogun. The General Secretary of the Gion Association wanted to have a privately switched telephone network connecting 280 Geisha houses in order to facilitate the rotation of Geisha girls, and to cope with increasing foreign guests on the occasion of the Tokyo Olympic Games of 1964. I struggled with a very complicated process in order to be able to give the Minister's license to the Gion Association in accordance with the Wire Telecommunications Law. I finally succeeded, but not until after the Olympic Games. The consequences for the Ministry were severe,

however. The National Diet's Communications Committee adopted a resolution accusing the Ministry of violating monopoly policy. I had thought of the Gion network as a PBX over a field rather than within a building, and saw no way in which it could be interpreted to be a violation of monopoly policy. The Gion private telephone network is the first monument to Japanese deregulation. If you go to Kyoto you will see the license decorating the wall of the clearing house in Gion.

At the end of the 1950s, with the proliferation of computers, there was a desire to use the public telephone network, the cheapest method of data transmission. This was allowed only in 1972, however, fourteen years after AT&T instituted services of the Dataphone 50. In general, Japan, during the two decades prior to 1985, lagged about a decade or more behind the United States in the introduction of new services, mainly due to our monopoly policy. Examples include the Open Sky Policy initiated in 1972 in the United States, and followed in Japan with the CS2 in 1983, VAN in the United States in 1973, and VAN in Japan in 1982, the Carterfone case of foreign attachments in the United States in 1968, and movements liberalizing foreign attachments to the phone in Japan in 1972, 1982, and 1985.

Concerning the inevitable 1985 reforms, the four stages of the reform began in 1985 with the replacement of the Public Telecommunications Law by the drastic changes of the Telecommunications Business Law. Japanese monopoly policy in telecommunications obstructed progress. A comparative analysis with the development of the various types of broadcasting made this clear. There was a need to promote innovation in telecommunications through a competitive market. This was the most compelling reason for the enactment of the Telecommunications Business Law.

Along with the enactment of the Business Law, the Public Corporation Law was abolished and the new NTT Law was passed. There was a desire also in NTT for an environment of free corporate administration after the thirty years of excessive control. For example, the yearly budget necessary for business operations required the approval of the National Diet. Therefore, it was thought that there was no alternative to the abandonment of the monopolized market in favor of a competitive market. It was thought that the large deficit, including the ¥30 trillion deficit of Japan National Railways, accumulated by the finance ministry over more than ten years, could be alleviated somewhat by selling NTT shares. In a sense, the largest contributor to the privatization of NTT was the Ministry of Finance.

In the private sector, it is natural that telecommunications equipment producers are directly affected and would welcome liberalization of policy that offered possibilities of large sales in an active market. Companies such as trading houses that had abundant capital and personnel, but lacked business leverage, felt the liberalized policy to be a welcome rain from heaven.

The Ad Hoc Commission on Administrative Reform was a direct promoter of reform, but it cannot receive the entire credit for its success. As mentioned above, there was strong support from all sectors of society and no opposition. There has never been any reform in Japan as widely blessed as this one.

What follows is a synopsis of the 1985 reform. Although the Telecommunications Business Law contains 144 articles, the content of the legislation is straightforward, its crucial point being as follows: Type One businesses, facilities owners, and Type Two businesses, facilities lessors, are distinguished and administered differently. Type One businesses, because of their large investment in equipment, are regulated. In other words, the permission of the Minister of Posts and Telecommunications is necessary for the creation of fees and the initiation of business. For Type Two businesses, the Ministry of Posts and Telecommunications must be notified of the start of business, but there is no control in the form of the fee approval. Notification is obligatory, and therefore a form of administrative regulation, but no administrative office holds the right of rejection and there is no mechanism for controlling entry into the market. Japan's administrative offices can use the information gained through obligatory notification only for the compilation of statistics. Free entry into the Japanese market on the basis of notification can be thought to be completely on a par with the deregulated conditions in other countries. In three years since the institution of the laws, there have been no complaints from business.

The most eloquent proof of eliminated restrictions is that as of November 1989 the number of the new entries, including Type One and Type Two, reached 849. Among those there are twenty-seven Special Type Two businesses, including fifteen international VAN companies, and 767 Type Two. The majority capital of twelve of the companies is foreign. Total revenue of Type Two carriers is estimated at around ¥850 billion.

Type One companies numbered fifty-five, including three that concentrate on specialized local network services. They started long-distance telephone services as of September 1987. There are also two

companies specializing in satellite communications, two in international communications, four in local network services, seven in cellular telephone services, and thirty engaged in paging services. In these companies, foreign capital investments can be seen from such sources as Hughes Communications, Motorola, and Merrill Lynch. The revenue of these companies amounted to ¥110 billion in 1988.

The new NTT Law that transformed NTT from a public to a private corporation can also be said to be succeeding in that NTT has reorganized through the establishment of more than 100 affiliated companies for streamlining purposes. Additionally, NTT's data communication division, with annual revenue of around ¥200 billion, became a separate wholly owned subsidiary, and NTT announced that its holdings will be reduced in the near future. However, it is still uncertain whether diversification will have positive effects on NTT's management.

The 1985 reforms have been a great success, but the question remains of how conditions of fair and harmonious market competition are to proceed. In the initial report of the Ad Hoc Commission on Administrative Reform, the final stage of NTT's privatization is set in the manner of the breakup of AT&T. But in case it is not carried out as proposed, the Liberal Democratic Party (LDP), together with the Ministry of Posts and Telecommunications, devised in the fall of 1983 a plan of action to carry out privatization, preserving the integrity of NTT as a single body. An amendment was added to the draft of the new NTT Law to the effect that it must be reviewed in five years.

At present, the process of law is proceeding as scheduled with the entrance of new operators. One wonders, however, how long it will take before newcomers of Type One command 10 per cent or ¥500 billion of NTT's ¥5 trillion market. According to the law, NTT has come to be merely one of many telecommunications business operators. But the condition of the market is like ten or so ants competing with an elephant. Given such a condition, one must ask what administrative measures should be taken so fair competition can be established. The future duties and obligation of the Ministry of Posts and Telecommunications are very large. In case harmony cannot be achieved between the ants and the elephant, a drastic second reform plan, including the possibility of the breakup of NTT, must be prepared. In fact, in October 1989, the Telecommunications Advisory Council of the Ministry of Posts and Telecommunications issued an interim report concerning NTT's management and market conditions. In the report, divestiture is considered, along with other alternatives, as an effective measure for coping with many serious problems NTT presently has; namely, inefficient

management, unfair advantages in the market, and so on. The Advisory Council's final report is to contain recommendations of measures the government should take as a result of the review of the NTT Law.

At the Pacific Telecommunications Conference in Hawaii in 1984, I heard Americans use frequently the phrase 'fair competition.' At that time, I was using the concept of 'harmonious competition.' Now I would like to revise this to 'excessive competition.' This phenomenon can be seen in the example of the numerous hardware manufacturers such as NEC, Toshiba, Hitachi, Mitsubishi, Matsushita, and Sony. In addition, there is the situation of seven major television networks competing for ratings daily in an area smaller than California. Such excess competition is responsible for the development and the strength of the Japanese product and of Japanese television programs. In other words, the more competition the better.