

Comments of the Government of Japan
on
2003 "Section 1377" Review

The purpose of reviews under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 of the United States is to examine the operation and effectiveness of each trade agreement in the field of telecommunications from the United States' own point of view, and take the result into consideration when the U.S. determines whether or not to implement measures against other countries. The Government of Japan is in the first place concerned about the existence itself of such a section that enables the U.S. Government to adopt a unilateral approach.

The Government of Japan reiterates its request that the U.S. Government should rethink its position, as can be seen in issuing this Review, of raising individual issues among private enterprises easily onto an intergovernmental table, without having the relevant companies use transparent procedures, such as arbitration and submission of opinions under the Telecommunications Business Law.

The following are our specific comments on each item discussed in the Review:

1. Mobile Termination Rates

In Japan, when mobile interconnection rates surpass the sum of appropriate costs and appropriate profit under efficient management, the Minister for Public Management, Home Affairs, Posts and Telecommunications may require revisions to the interconnection tariff.

In addition, as the Review itself points out, NTT DoCoMo's interconnection rates have been reduced over the last several years, and the rates filed in March resulted in a further reduction of approximately 5 percent compared with the previous fiscal year. As a result, Japan's mobile interconnection rates are the lowest among the current interconnection rates listed in the Review.

Furthermore, there have also been no instances to date of U.S.-related carriers making an allegation that the setting of mobile interconnection rates is inappropriate through existing legal frameworks such as submission of opinions, requests for arbitration or order of interconnection, or dispute-settlement procedures.

2. Fixed Line Interconnection Rates

The interconnection rates of fixed networks in Japan are required to be fair and justifiable rates in relation to the appropriate cost under efficient management. Nevertheless, the U.S. Government merely and inappropriately states in the Review that the rates are "already double comparable rates in the EU and U.S." without making any qualifications. Instead, the U.S. Government should compare Japan's interconnection rates with all sorts of U.S. interconnection rates, such as reciprocal compensation charges between local carriers, inter-state and intra-state long-distance access charges and flat-rate

interconnection charges, among which a number of substantially higher charges are found.

The amendments to the regulations for interconnection charges to which the Telecommunications Council issued a report at the end of March were considered deliberately through a study group, the Telecommunications Council and public commenting procedures. They are the outcome of declining traffic inputted into the LRIC model. Therefore, the Review is incorrect in stating that "justifying a rate increase based on the revenue needs of the government-owned NTT East and West", while inappropriate in mentioning "an absence of impartiality."

The Government of Japan hereby restates that it has been faithfully implementing its commitments under the WTO Basic Telecommunications Agreement.

3. Independent Regulator

The WTO Reference Paper stipulates that the regulatory body is separate from any supplier of basic telecommunications services and that the decisions of and the procedures used by regulators shall be impartial with respect to all market participants, which Japan strictly adheres to. The development of competition in broadband internet and mobile phone services in Japan substantiates the effectiveness and success in worldwide comparison of our regulatory system.