

In Brief

Asia-Pacific Policymakers Stress Readiness for Broadband Deployment

Two main conclusions of Asia-Pacific telecom policymakers are that strengthening of regional cooperation should continue to ensure the voice of the region is better heard in the international community and the promotion of broadband is going to be perhaps the major focus of attention in the coming decade. More than 100 participants attended the Asia-Pacific Telecommunity Forum on Policy and Regulation held in Chiang Rai, Thailand in July. Mr. Amarendra Narayan, Secretary General of APT announced that the next Forum would address major regulatory challenges which Asia-Pacific are facing.

The importance of Wi-Fi technology promises an affordable broadband access, especially in rural areas, was stressed by Ms. Susan Schorr of the ITU Bureau for Telecom Development. She also reported how ITU is conducting case studies on interconnection dispute resolution and consensus building. Sector reform, building on the experiences in mobile services, can be used for bridging the digital divide and for introducing broadband services, she stated.

A further exposition on good telecom regulation was presented by Mr. Arjumand Shaikh from INSTEP, Pakistan. He outlined the principles of good regulation indicating that independence, transparency, licensing, interconnection, facilitation, price control, dispute settlement/resolution, QoS regulation, spectrum management, standardization, private and public participation as parameters. Shaikh indicates that an effective regulator has to be independent, powerful and competent, should practice transparent procedures, should be consistent and ensure a targeted performance. He underlined the importance of merging policy with regulatory functions in order to build the image and credibility of the regulator which alone may attract investments

in broadband infrastructure, so desperately needed by some countries.

For India, Mr. S.N. Gupta from the telecom regulatory authority (TRAI) said, the regulatory authority had proposed 128kbps bandwidth and “Always-On” connectivity for qualifying as broadband connectivity for the country. The Indian government considers broadband to be a crucial infrastructure to achieve socio-economic development goals and to facilitate provision of public services such as E-Government, E-Learning, Tele-Medicine, etc. It is also a fundamental technology for business transformation and is critical for national competitiveness, he said. Gupta also pointed out that broadband can help telecom service providers as well as ISPs to increase their revenue many fold by providing innovative value added services.

Hong Kong SAR has a high penetration of broadband services, Mr. M.H. Au, director of the Hong Kong telecom regulatory agency reported. This has been achieved by a combination of factors including market liberalization, measures to facilitate network rollout and those to overcome bottlenecks in customer access networks.

“Enhancing Regional Cooperation in Broadband Policies” was presented by Ms. Ayumi Kubo from the Ministry of Home Affairs, Post and Telecommunications, Japan. She said that ICT plays a key role for socio-economic development and it is vital to encourage further development of ICT in Asia. While comparing with international trade, information flows between Asia and other parts of the world, as well as within Asia, are unreasonably small and this imbalance must be ended. In Asia, while improving ICT and bridging the digital divide, introduction of broadband would play a significant role. Recently, Japan has formulated “Asia Broadband Program” and will make concerted efforts with Asian countries to realize the programs for deploying broadband platforms in Asia. She also described the possible measures for preparing broadband network infrastructure and roles of APT in promoting broadband in the region.

Access and Competition

A paper on telecom development strategy through Universal Service Obligation (USO) Program” was presented by Mr. Arif Wismadi, special assistant for Directorate General Postel, Indonesia. He briefed delegates on Indonesia’s network infrastructure status and current problems being faced. He also gave general strategy for national telecom development and commercial regulation. While explaining USO development fund, it was indicated that every district capital and village will have one basic telephony service. He reported that USO has started to bridge the digital divide in Indonesia. He further elaborated on the financial resources, technology and indicators relating to USO.

“Pro-competitive policies in the broadband era and dispute settlement” was presented by Mr. Hiroshi Asami, MPHPT, Japan. The paper presented an account of pro-competitive policy in the telecommunications field in Japan. Mr. Asami described the establishment and work of Telecommunication Business Dispute Settlement Commission. The Commission’s functions include mediation and arbitration among telecom carriers, inquiry concerning interconnection of telecommunications facilities, and reporting to the Ministry with recommendations on new competition rules.

Impacts of Telecom Liberalization on the Workforce

An international trade union officer, Mr. Dan Dwyer from Union Network International, Australia discussed the trade union view that competition and privatization policies in the telecom industry are not appropriate policies. In support of this, he emphasized that privatization was sold on the promise that there would be an increase in access to telecommunication services. But reality shows otherwise. He presented reasons for the union position on competition, which include the need for long-term investment, the responses of the private companies which focus on short term profits, unnecessary duplication of infrastructure in small profitable geographical areas, and little infrastructure in the large geographical areas of subsidy.

On the question of staff reductions, he noted that profits have to grow and costs have to be covered, no matter how bad the investment decisions are. Thus, staff reduction is imperative. On deregulation, he opined new regulation such as USO guarantee, CSG guarantee, interconnection issues, unbundling and related aspects need to be tackled. He maintained that in some areas, there is a need for greater regulation. Pro-

jecting the future, he said, the regulators have a difficult task, and highlighted the problems. These include the position of the old monopoly, carrier complaints made to regulators, governments seeking political solutions and universal service in broadband.

Preparing for WTO Doha Development Round Negotiations

The WTO Doha Development Round of multilateral trade negotiations is expected to move ahead rapidly after the WTO Ministerial Conference to be held in Cancun, Mexico, in early September, reported Russell Pipe, an international telecom trade policy advisor. The goal is to conclude the Round by December 2004. The results will be important to APT countries, of which 21 are WTO members and 6 are observers applying for full membership. APT is planning to assist member countries on many of the issues for consideration to help gain skills to participate effectively in their government’s trade policymaking.

As governments consider these WTO negotiations, preparing positions on major issues is an important first step. Four key issues can be identified:

1. Identifying and Promoting Development
Objectives: This trade round is intended to contribute to expanded trade in telecom services as well as helping to reduce the “development gap”.
2. Deciding on Market Access and Investment Policies
How much competition and foreign participation in telecom operations – fixed line, mobile and other services will be allowed?
3. What should be the scope of telecom and information services in the negotiations?
Should negotiations cover new services such as the Internet be specifically regulated, in terms of VOIP, charging arrangements and other features; should wireless services standards, spectrum and other aspects be regulated; should digital products as software and music be considered within the scope of telecom services; and are broadcast and other audio-visual services to be considered related communications services?
4. Determining the Structure and Responsibilities of Telecom Regulatory Authorities.
What should be the expected required of telecom regulators in the present Reference Paper or under new trade rules.

These are likely to be the top issues that will be presented by some countries at the beginning of telecom negotiations. Together with APT, member countries can begin soon to prepare their positions and strategies.

Forum Recommendations

The telecom policymakers from some 20 countries concluded the Forum by approving several recommendations on several key issues:

Broadband Development/ Deployment

- APT members should develop policies and programs for broadband deployment and revisit their regulatory situation with respect to the introduction and delivery of broadband services. Particular attention should be paid to the issues of interconnection, licensing, cross-sectoral matters, relationship between Broadband and USO etc.
- Private sector should be invited to take active part in the broadband deployment. The members may also decide to set up Broadband Councils at national and provincial levels involving government agencies, regulatory authorities and the private sector for accelerating the development of broadband.
- A consultative document outlining the regional roadmap on broadband development should be prepared and circulated to the members for their consideration. After consultation with members, the document should be updated to serve as a Regional Opinion document on broadband development.
- Broadband development should be a major area of APT activity in the coming years. APT should organize a Broadband Summit in the year 2004 to discuss key aspects involving promotion of broadband in the Asia Pacific region. The Broadband Summit should cover the aspects of policy, regulation, infrastructure development, application, resource mobilization etc.
- Consultation should be carried out electronically on various topics concerning broadband.

Cooperation with Regional and International Organizations/Bodies

- The relationship between Policy and Regulation Forum (PRF) and the ITU's Global Symposium for Regulators (GSR) should be further strengthened.
- The World Bank should assist the APT in developing and implementing appropriate national, sub regional and regional programs for the benefit of APT members.

- Consumer Protection and the Domain Name Issue
- APT members should establish appropriate council to promote consumer education and awareness under the banner of “consumer protection mechanisms”. The objective is to make the consumer aware of their right and understanding of the services offered, ability to evaluate between price and quality, etc. Service providers should provide quality of service performance guarantee for the consumer as a part of consumer protection mechanism. It is essential that service level agreement and ISO quality system should be in the domain of the proposed council.
- APT members should establish an administrative body, to deal with the mechanism of domain names. It should be a neutral non-profit government organization with proviso of dispute resolution, etc. The decision of arbitrator for dispute resolution should be binding for the administrator. The Telecommunication Act may clearly provide for domain name (DN) issue. The fees proposed to be charged for this administration should be minimum so as to just recover the cost of administration.

Recommendations to APT Secretariat

- APT should regularly organize meetings, workshops and Capacity Building programs on Policy and Regulation at national, sub-regional and regional levels for the benefit of APT members.
- APT electronic information system, e-mail reflector system and the bulletin board should be utilized to enhance activities and encourage discussion on matters of interest related to Policy and Regulations.
- APT should organize a workshop on “Internet charging”.
- APT should organize seminar on broadband development in conjunction with regular APT meeting and apply relevant information from APT Study Groups.
- APT should organize a seminar to discuss Universal Service Obligation (USO) – its concept, modalities and procedures for setting up a USO fund and the management of USO Fund to achieve its goal.
- The theme of the next Forum would be “Universal Service through Broadband”. A few concise papers focusing on the theme should be presented in the Forum and panel discussions should be organized for bringing forward the key points involved. One day should be specifically allotted for presentation from the private sector.

Value Added Tax on EU Digital Sales

The European Union, effective July 1, 2003, has implemented Council Directive 2002/38/EC, changing EU rules for charging Value Added Tax (VAT) on the supply over electronic networks (i.e. digital delivery) of software, and computer services generally, plus information and cultural, artistic, sporting, scientific, educational, entertainment or similar services. An EU press statement indicates that “from that date these services are taxed in the country where the customer resides rather than where the supplier is located. When a non-EU supplier sells to business customers in the Union (at least 90% of this market), there will in practice be no charge and the VAT implications will be handled by the acquiring company in the EU under self-assessment arrangements. For the non-EU supplier whose customers are non-business individuals or organizations, there will now be an obligation to charge and account for VAT on these sales just as EU suppliers have to do”.

According to news commentaries on the directive, it adds a 15 to 25 percent levy (VAT) on selected Internet transactions, as software and music downloads, monthly subscriptions to an ISP and on any product through an online auction in any of the 15 member countries. European dot-coms have been charging customers VAT since their inception. Their overseas rivals, however, have been exempt, making foreign firms an obvious choice for the bargaining-hunting consumer or business. From another perspective, the directive means that companies based in the US will be obliged to raise prices for European buyers.

One of the motives for adopting the Directive, some European Internet users contend, is this claim that foreign dot-coms were gaining an unfair advantage by being outside the EU and thus avoiding charging VAT for their services.

One complaint already being raised by non-European E-Commerce vendors is how to determine what qualifies as a “digital service”. If a product or service is reduced to a digital medium, then it most likely must be classified as a digital service. As well, some American companies say this VAT will put them at a significant disadvantage because they must comply with the different tax codes of 15 European countries, or establish a European office. America Online Time Warner, for example, is moving its European office to Luxembourg

to make some tax savings. Amazon.com has indicated that it plans to charge VAT on the commissions it collects for hosting its online auctions. The company will also collect taxes on sales of downloadable software and e-books. Online auction house eBay will pay the VAT itself in its small European operations in such countries as Italy and France, but will make customers pay in the UK and Germany through higher fees.

The full text is available at <http://europa.eu.int/eur-lex/en/dat/2002/l128/l12820020515en00410044.pdf>.

Asia Broadband Program Launched

To ensure that Asia is a global information hub, Japan has announced a plan to contribute to building a broadband program, based on the e-Japan Priority Policy Program. The Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT) will be responsible for carrying forward the plan. As reported in *New Breeze* (Summer 2003), quarterly publication of the ITU Association of Japan, the plan contains a three-part structure: basic concepts, goals and measures to be taken.

Basic Concepts

First, the basic concepts describe requirements for broadband that enables high speeds, large capacity, constant connection, and flat rates making it possible to substantially overcome the constraints of time and space and further develop the societies, economies and cultures of Asia. A review of the broadband situation in Asia shows that while some countries have world-class broadband environments, problems persist in others, such as the digital divide, lagging utilization due to insufficient demand, and smaller volumes of information traffic between countries in comparison to the US and Europe.

Considering these circumstances, it is necessary to further promote the deployment and utilization of broadband, taking into account cultural diversity if Asia, in order to eliminate digital disparities, ensuring that all people in Asia enjoy the benefits of information technology. This also will serve to further develop Asian societies, economies and cultures. To accomplish this, it will be necessary for governments, private enterprises, non-profit organizations, and international organizations to collaborate in concerted efforts. Japan will plan a leading role.

Goals

In response to these basic concepts, the program has seven goals that will enable all people in Asia to have broadband access and utilize the content and applications that are made possible by this technological development. By doing so, the Asia Broadband Program aims to make Asia a global information hub.

Measures to be Taken

These can be divided into measures for building broadband network infrastructure and related measures for diffusion. Five initiatives have been identified: (a) support for network infrastructure construction in developing countries, (b) promotion of international networks including IXs; (c) development of ultra high-speed Internet satellite capabilities; (d) promotion of R&D and standardization activities; and (e) human resources development and personnel exchanges.

With regard to broadband policies, several have been identified: (a) construction of a basic infrastructure for security assurance and for IPv6 diffusion; (b) promotion of applications such as E-Government that utilize broadband; (c) promotion of the distribution of digital content such as multi-language translation facilities and digital archiving; (d) support for building national strategy, policy and schemes, as well as (e) other forms of support for developing countries.

The MPHPT and related Japanese ministries and agencies intend to actively engage in this plan in cooperation with governments, private enterprises, non-profits and institutions in Asian countries. A number of specific initiatives and related measures have been approved in order to achieve the goals described above, by 2010.

Americans Buying Privacy Products

One in five Americans say they have bought a privacy product to avoid identity theft, check their credit report, or surf or shop online anonymously, according to a new survey commissioned by Privacy & American Business (P&AB) and conducted by Harris Interactive. These figures represent a privacy product market value to approximately \$2.5 billion (credit check products

range from \$69.99 to \$119.99 annually and anonymizers range from \$50 to \$100 annually for an average product price of \$75).

In announcing the results, Dr. Alan Westin, Columbia University Professor and President and Publisher, P&AB stated: "While heavy majorities of the American people, in the 80% ranges, say they are concerned about their consumer privacy today; only 33.4 million are taking active steps to protect their privacy. These are what I call the new 'privacy self-help consumers'".

The survey found that roughly the same number of these new privacy self-help consumers run the demographic gamut: black, white and Hispanic; Republican and Democrat; conservative, moderate and liberal; and from all regions across the US and both off and online.

Dr. Westin noted. "The broad diversity of consumers buying privacy self-help products reflects the reality that privacy is a concern shared today by consumers regardless of race, political party affiliation, ideology and whether they go on the Internet or not. And, in terms of seeking protection against misuses of consumer personal information, self-help is the strongest (8 million buyers) among the 33 million American adults who say they have been victims of identity theft – with 20% of them buying these products".

Men say they buy privacy products more often than women (19% to 12%). People between the ages of 35 and 64 buy more often than those under 25 and over 65. Those earning more than \$35,000 say they have bought more often than those earning under that amount. And, respondents with higher levels of education say they have bought more often than those with a high school diploma or less.

Compared with the 16% of privacy product buyers in the general public, more than one third (36%) of American Civil Liberty Union (ACLU) members have bought privacy products, and almost one fourth (24%) of subscribers to Consumer Reports. Among customers of businesses, one third of IBM customers (32%) have bought privacy products, 39% of Lehman Brothers customers, 27% of Chase/J.P.Morgan and Merrill Lynch patrons, 23% of American Express cardholders, 26% of Intuit product buyers, and 24% of Earthlink Internet subscribers.

The complete survey report and a P&AB Electronic Newsletter on ID theft were released in July. For further information contact Ms. Irene Oujo at ioujo@pandab.org.

Freedom of Communication on the Internet

Continuing its commitment to freedom of expression and freedom of information, the Council of Europe (CoE) on May 28, 2003, adopted a Declaration on Freedom of Communication on the Internet. The declaration seeks “to balance freedom of expression and information with other legitimate rights and interests” within the context of its Convention of Human Rights and Fundamental Freedoms. The CoE adopted this declaration resulting from concerns about “attempts to limit public access to communications on the Internet for political reasons or other motives contrary to democratic principles”. Overarching national policies relating to the Internet ought to be that “prior control of communications on the Internet, regardless of frontiers, should remain the exception”. Such a commitment, the CoE believes, “will contribute to guaranteeing the right of users to access pluralistic content from a variety of domestic and foreign sources.” The declaration also takes note of the necessity to limit the liability of service providers “when they, in good faith, provide access to, or host, content from third parties.”

The governments of the 45 Member States of the CoE to seek to abide by the following principles in the field of communication on the Internet:

Principle 1: Content Rules

Not subject content on the Internet to restrictions that go further than those applied to other means of content delivery.

Principle 2: Self-regulation or Co-regulation

Encourage these types of regulations regarding content dissemination.

Principle 3: Absence of Prior State Control

Public authorities should not, through general blocking or filtering measures, deny access by the public to information and other communication on the Internet, regardless of frontiers. This does not prevent the installation of filters for protection of minors, as in schools or libraries.

Principle 4: Removal of Barriers to Participation

Foster and encourage access for all to Internet communication and information services on a non-discriminatory basis at an affordable price. The running of individual websites should not be subject to any licensing or other requirements having a similar effect.

Principle 5: Freedom to Provide Services

Provision of services via the Internet should not be made subject to specific authorization on the sole grounds of the means of transmission used.

Principle 6: Limited Liability of Services Providers

Not impose a general obligation to monitor content on the Internet to which they give access, that they transmit or store, nor of actively seeking facts or circumstances indicating illegal activity.

Principle 7: Anonymity

To ensure protection against online surveillance and to enhance the free expression of information and ideas, Member States should respect the will of users not to disclose their identity.

Information Technology Parks in Asia Promote Development

Redressing global inequalities in access to communications technologies is a Herculean task calling for huge investments in infrastructure and human resources, observes Dr. Meheroo Jussawalla, co-editor with Prof. Richard Taylor, of the book *Information Technology Parks of the Asia Pacific – Lessons for the Regional Digital Divide*, published with the support of The Ford Foundation. Globalization is driven by the accumulation of investments in IT that enhances the knowledge base of developing countries. It empowers developing nations to use that knowledge base for the economic development of their people and in the long run to reduce the global digital divide (GDD). Many developing nations are establishing information-based technology parks as their primary strategy for promoting foreign direct investment (FDI), technology transfer,

research and development (R&D), employment, and overall economic growth, all of which affect the GDD.

This study compares IT parks in China, India, Malaysia, Singapore, Taiwan, and Hawaii, in search of strategies that policymakers can employ to reduce the GDD, advance distributional equity, and soften some of the negative effects of economic globalization. The book explores the objectives and different national IT policies and the developmental status of the various IT parks, suggests “best practices” based on these cases, and considers the challenges to future IT park developments.

A baseline of comparative data on the five IT parks, with additional focus on development projects in Hawaii, are presented in the study. Data are derived from a survey of each IT park interviews with government leaders and experts, published data and secondary sources.

Information Technology Parks of the Asia Pacific – Lessons for the Regional Digital Divide, is published in hardcover and paperback by M.E. Sharpe, 80 Business Park Drive, Armonk, NY 10504 USA, Tel: (800) 541-6563 Fax: (914) 273-2106, website: www.mesharpe.com.

Biometrics Privacy Code Proposed for EU

The creation of a code of conduct governing the use of biometric technologies has been recommended in a report adopted on August 1, 2003 by the Article 29 Working Group established under the EU Data Protection Directive. It would apply to the use of biometric technologies, such as fingerprint, iris, or voice recognition systems, to identify individuals. For the full text see: http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2003/wpdocs03_en.htm. Noting that the rapid progress of biometric technologies and their expanded application in recent years, the Working Group believes this necessitates careful scrutiny from a data protection perspective. “A wide and uncontrolled utilization of biometrics raises concerns with regard to the protection of fundamental rights and freedoms of individuals”, the report points out. “This kind of data is of a special nature, as it relates to the behavioral and physiological characteristics of an individual and may allow his or her unique identification”.

Presently in Europe, the report continues, “biometric data processing is often used in automated authentication/verification and identification procedures, in particular for the control of entry to both physical and virtual areas (i.e. access to particular electronic systems or services. Previously, the use of biometrics was mainly confined to the areas of DNA and fingerprint testing. The collection of fingerprints was used in particular for law enforcement purposes, such as criminal investigations. If society encourages the development of fingerprints or other biometric databases for further routine applications, it may increase the potential re-use by third parties as an element of comparison and research in the framework of their own purposes, without such an objective having initially been sought; these third parties may include law enforcement authorities”.

A specific concern related to biometric data, the Working Group stated, “is that the public may become desensitized through a widening use of such data, to the effect their processing may have on their daily life. For, example, the use of biometrics in school libraries can make children less aware of the data protection risks that may impact upon them in late life”. The following are extracts from the report.

Application Biometric Techniques to Data Protection Directive

The Directive defines “personal data” as “any information relating to an identified or identifiable natural persons>one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental identity”. Recital 29 adds the following explanation “to determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the said person. It appears that biometric data can always be considered as “information relating to natural persons” as it concerns data, which provides, by its nature, information about a given person. The Directive applies to the processing of personal data wholly or in part by automated means. The directive does not apply if the data are processed by a natural person in the course of purely personal or household activity. The report notes that “many biometric applications in domestic use will fall under this category”.

Principle of Purposes and Proportionality: The Working Group’s examination of biometric data focuses initially on Article 6 that requires “personal data

must be collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes. In addition, personal data must be adequate, relevant and not excessive in relation to the purposes for which they are collected and further processed (Purpose Principle)". The respect to this principle implies firstly a clear determination of the purpose for which the biometric data are collected and processed. Furthermore, an evaluation of the respect for proportionality and the respect for legitimacy is necessary, taking account the risks for the protection of fundamental rights and freedoms of individuals, notably whether or not the intended purpose could be achieved in a less intrusive way".

Fair Collection and Information of the Data Subject: The processing of biometric data and in particular its collection should happen in a fair way. "The controller should inform the data subject of the purpose and identify of the controller of the file, that is the person running the biometric system. Systems that collect biometric data without the knowledge of the data subject must be avoided. Some biometric systems like distance facial recognition, collection of fingerprints, and taping of the voice present more risk from this perspective".

Security Measures: In accordance with Article 17, the controller must take all appropriate technical and organizational security measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of biometric data over a network. Security measures must be taken when biometric data are processed (storage, transmission, extraction of characteristics and comparison, etc.) and in particular if the controller transmits such data via the Internet. The security

measures could include the encryption of the templates and the protection of encryption keys in addition to access control and protection making it virtually impossible to reconstruct the original data from the templates.

Sensitive Data: Some biometric data could be considered as sensitive in the meaning of Article 8, in particular data revealing racial or ethnic origin or data concerning health. For instance, in biometric systems based on facial recognition, data revealing racial or ethnic origin may be processed. In such cases special arrangements are call for.

Unique Identifier: Biometric data are unique and most of them generate a unique template or image. If used widely, in particular for a substantial portion of a population, biometric data may be considered as an identifier of general application within the meaning of the Directive. Where biometric data are intended to be used as a key to link databases containing personal data particularly difficult issues may arise whenever the data subject has no possibility to object to the processing of biometric data. This may commonly occur in relations between citizens and public authorities.

Codes of Conduct and Use of Privacy Enhancing Technologies: Industry is encouraged to produce biometric systems that facilitate the implementation of the recommendations contained in this report or international standards developed in this field. These should be elaborated and coordinated with data protection authorities to promote biometric systems that are constructed in a data protection-friendly manner, minimize the social risks and prevent the use of the biometric data. Application of Privacy Enhancing Technologies (PETS) can help to minimize the collection of data and prevent unlawful processing. Further, codes of conduct are important to proper implementation of data protection principles.