

**On Reviewing the Power of the Telecommunications Tariff in Taiwan:  
An Analysis of Two Cases of the Supreme Administrative Court**

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**Abstract**

Following the liberalization of the telecommunications industry in Taiwan, many regulatory measures, including tariff regulations, have been adjusted when the industry has been faced with increased market competition. Currently, the regulator of Taiwan's telecommunications industry, the National Communications Commission (NCC), has adopted a "price-cap" regulation with economic incentives for telecommunications operators in the noncompetitive market who have reached the goal of production to enable them to maintain certain margins. This predictive regulation for retail prices should be phased out when market competition emerges, and be replaced by a wholesale price regulation which genuinely reflects the reality of market competition.

This article seeks to analyze two cases of the Supreme Administrative Court prior to the revisions to the Regulations Governing the Telecommunications Tariff (Tariff Rule) in 2011, and finds that the tariff reviewing procedure should focus on whether the cost breakdown structure and the apportioned costs are consistent with the requirements of the Accounting Guidelines enacted by the NCC, and should consider the objective figures of the market situation and distribution of profits. As to whether the pricing goes against the benefits of consumers or involves unfair competition, the NCC should present objective criteria or conduct a market survey to meet the requirements of the due procedure of law.

This article finds that the NCC has lacked an objective, clear and proportionate procedure in its review of the telecommunications tariff, and has exercised improper administrative discretion on the rate plans that operators applied for. In 2013 the NCC announced a new Tariff Rule, which applies the price-cap regulation only to the main tariff items of the operators with significant market power (SMP) and simplifies the review procedures. The outcome has been a gradual change in the regulatory goal from retail price

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regulation to wholesale price regulation. The article argues that the NCC may actively adopt a hearing process to determine the rate plan that largely influences customers. When a tariff regulation focuses on market competition and there is a clear rule for operators to obey, the market will move in a healthier development direction.

**Keywords:** Telecommunications Tariff, Price-Cap Regulation, Retail Price Regulation, Wholesale Price Regulation, Differential Pricing, Network Neutrality.