GETTING THE DEAL THROUGH

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GLOBAL COMPETITION REVIEW

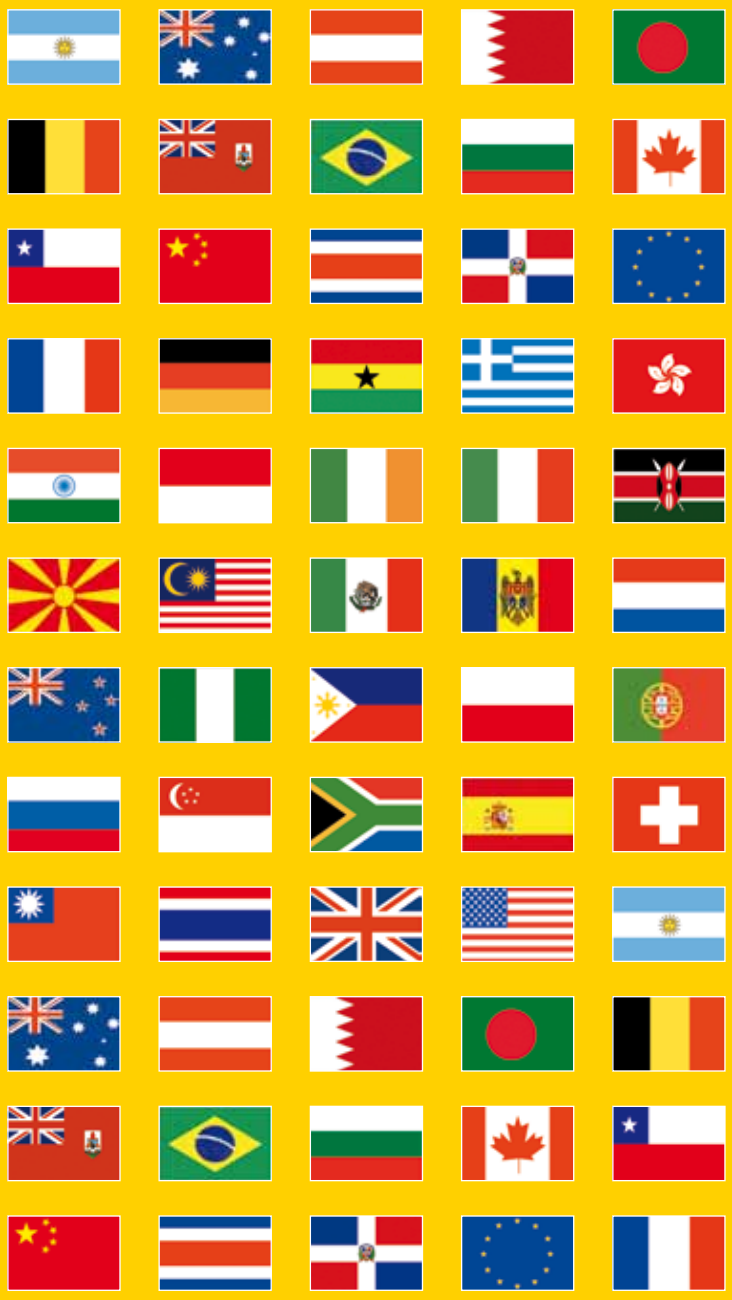
# Telecoms and Media

## An overview of regulation in 44 jurisdictions worldwide

## 2013

**Contributing editors: Laurent Garzaniti and Natasha Good**

Freshfields Bruckhaus Deringer

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# Telecoms and Media 2013

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# United States

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## Communications policy

### 1 Policy

Summarise the regulatory framework for the telecoms and media sector. What is the policymaking procedure?

In the United States, regulatory requirements and regulators vary by technology, with multiple federal (national), state, and local government agencies potentially involved. The basic sector-specific framework is established in the Communications Act of 1934 (Communications Act). The national regulator, the Federal Communications Commission (FCC), regulates interstate and international telecommunications, non-military uses of RF spectrum, over-the-air broadcast television and radio, and certain aspects of cable television content, but generally not internet backbone networks or peering arrangements. State and territorial public utilities commissions (PUCs) regulate intrastate telecommunications services (ie, the endpoints of a communication fall within the borders of a single state or territory). The Federal Trade Commission (FTC), the FCC, state PUCs and state attorneys general concurrently regulate trade practices, marketing, privacy and data protection in the communications sector, although the FTC lacks jurisdiction over common-carrier services. The FCC and FTC both regulate marketing activities by broadband internet service providers (ISPs). State and local government franchising authorities regulate cable operators and some telecommunications services. Local governments regulate zoning, rights of way, and wireless tower siting.

'Team Telecom' – an informal grouping of the Departments of Defense, Homeland Security, and Justice, and the Federal Bureau of Investigation – regulates national security issues with telecommunications service providers and network owners, while the Committee on Foreign Investment in the United States (CFIUS) reviews transactions involving existing US businesses. The FTC and the US Department of Justice (DOJ) jointly regulate competition and merger control.

Policy changes can be initiated at the federal, state or local government level. When the FCC sets rules, it overrides any conflicting state or local laws or requirements. The FCC sets rules though a notice-and-comment process. All final FCC rules are subject to review in the federal courts of appeal. State PUCs have similar processes for adopting rules, with the jurisdictional limits and processes varying from state to state; judicial review is generally available in the state courts.

### 2 Convergence

Has the telecoms-specific regulation been amended to take account of the convergence of telecoms, media and IT? Are there different legal definitions of 'telecoms' and 'media'?

The United States has not amended its telecommunications laws specifically to take account of convergence. The Communications Act is divided into separate titles for common carrier services, RF spectrum regulation and licensing (including over-the-air broadcast television and radio), and cable television regulation. The FCC asserts jurisdiction over internet access services, but the extent of that jurisdiction remains subject to court challenge. The FCC has not decided whether voice over internet protocol (VoIP) is subject to regulation as a common carrier voice service. With respect to media, regulation of over-the-air broadcast services remains tied to the FCC's authority to grant licences for use of the RF spectrum, and is stricter than the regulation of cable television. In 2013, Congress may begin considering an overhaul of federal telecommunications laws.

### 3 Broadcasting sector

Is broadcasting regulated separately from telecoms? If so, how?

The United States regulates television and radio broadcasting separately from telecommunications services and infrastructure. For example, a company must follow one set of rules when it provides a landline telecommunications service and another set of rules if it owns a television or radio station.

Please note that the United States regulates the delivery of television signals differently depending on how those signals reach the end-user. Broadcast television in the United States refers only to the delivery of signals over the air directly to a television. Cable television refers to the delivery of signals to a television through a terrestrial 'cable system' with distinct rules from those governing over-the-air television. Direct-to-home satellite refers to the delivery of signals to a television through the use of a satellite antenna, and is subject to yet another set of rules. Over-the-top internet video delivery has not been addressed by the FCC, but is subject to copyright rules – rules that are the subject of disputes before several courts.

## Telecoms regulation – general

### 4 WTO Basic Telecommunications Agreement

Has your jurisdiction committed to the WTO Basic Telecommunications Agreement and, if so, with what exceptions?

The United States scheduled specific commitments as part of the so-called WTO Basic Telecommunications Agreement and adopted the WTO Reference Paper. The commitments reflect US statutory restrictions on direct foreign ownership of wireless licences (see question 6) and took Article II (most-favoured nation) exemptions for one-way satellite transmissions of direct-to-home and direct-broadcast satellite services and digital audio radio services. The FCC's decision implementing the US commitments, provided that it would allow the Executive Branch to advise it on applications from providers with foreign ownership, is consistent with the WTO Services Agreement's provisions on national security.

**5 Public/private ownership**

What proportion of any telecoms operator is owned by the state or private enterprise?

Nearly all telecoms operators in the US are private enterprises. The US government does not own any telecoms operators. Only a few small telecoms and cable operators are owned by state, tribal or local governments.

**6 Foreign ownership**

Do foreign ownership restrictions apply to authorisation to provide telecoms services?

Yes. The FCC applies a public interest analysis in determining whether to allow a foreign investor to enter the US telecommunications market. For international telecoms service authorisations (international section 214 authorisations), the FCC presumes that the public interest is served by direct and indirect foreign ownership (up to 100 per cent) in facilities-based and resale providers of interstate and international telecommunications services, where the investor's home country is a WTO member, and in undersea cables landing in WTO member countries. For investors from non-WTO member countries – and undersea cables landing in non-WTO member countries – the FCC will find that the public interest is served by direct and indirect foreign ownership (up to 100 per cent) only upon a finding that the investor's home country – or country of landing, in the case of an undersea cable – offers effective competitive opportunities (ECO) for US investors. The FCC determines an investor's home market and consequent WTO status by applying a principal place-of-business test. In 2012, the FCC proposed to eliminate or substantially modify the ECO test requirement for non-WTO member countries, though the likelihood and timing of a rule change remain uncertain.

For RF licences, the United States imposes limitations on both direct and indirect foreign ownership. Regardless of WTO status, section 310 of the Communications Act prohibits a foreign government, corporation organised under foreign law, non-US citizen or representative of a foreign government or non-US citizen from directly holding a common carrier RF (for terrestrial wireless/microwave, mobile, or satellite service) or aeronautical licence. Section 310 does, however, permit direct and indirect foreign ownership in such licensees, subject to a number of additional requirements:

- Common carrier RF licence not controlled by a foreign investor: for non-controlling investments that result in aggregate direct and indirect foreign ownership of 20 per cent or less, the FCC does not require prior approval. For non-controlling investments that result in aggregate direct and indirect foreign ownership in a licensee in excess of 20 per cent, the FCC requires that the licensee first obtain a declaratory ruling finding that such foreign ownership would serve the public interest. For investors from WTO member countries, the FCC presumes that aggregate foreign ownership of up to 100 per cent serves the public interest. For investors from non-WTO member countries, the FCC permits foreign ownership (up to 100 per cent) only upon satisfaction of the ECO test.
- Common carrier RF licence controlled by a foreign investor: section 310(b)(3) prohibits direct, controlling ownership in the licensee in excess of 20 per cent. For controlling investments that result in aggregate direct and indirect foreign ownership in a licensee in excess of 25 per cent, the FCC requires that the licensee first obtain a declaratory ruling finding that such foreign ownership would serve the public interest. For investors from WTO member countries, the FCC presumes that aggregate foreign ownership of up to 100 per cent serves the public interest. For investors from non-WTO member countries, the FCC permits foreign ownership (up to 100 per cent) only upon satisfaction of the ECO test.

In 2013, the FCC will probably act on its earlier proposal to simplify the requirements for obtaining a declaratory ruling finding that foreign ownership would serve the public interest, though the details and timing of a rule change remain uncertain.

The FCC may nonetheless deny approval if the Executive Branch raises serious concerns regarding national security, law enforcement, foreign policy or trade issues, or if the entry of the foreign investor (or cable landing) into the US market presents a risk to competition. In practice, applications for carrier licences for facilities-based and resale international telecommunications services, common-carrier RF licences, and non-common-carrier licences used for mobile or wireless-networking services are typically subject to national security reviews by the Team Telecom agencies. These agencies (which also review mergers and acquisitions – see questions 53 and 54) often require negotiation of security agreements or assurances letters prior to licensing or transaction consummation.

The CFIUS reviews only acquisitions of control (eg, by merger, acquisition of stock or assets or creation of a joint venture) by foreign persons of existing US businesses engaged in interstate commerce (as described in questions 53 and 54). The CFIUS does not review 'greenfields' investments, whereby a foreign investor creates a new US telecommunications business.

**7 Fixed, mobile and satellite services**

Comparatively, how are fixed, mobile and satellite services regulated? Under what conditions may public telephone services be provided?

Fixed providers of common-carrier services are authorised by a blanket FCC authorisation to provide interstate domestic services and must obtain affirmative prior authorisation from the FCC pursuant to section 214 of the Communications Act (international section 214 authorisation) to provide services between US and foreign points, whether facilities-based or resale, whether using undersea cables, domestic or foreign satellites, or cross-border terrestrial facilities, and regardless of whether the traffic originates or terminates in the United States or both. For intrastate services, a fixed provider must generally be licensed by the relevant state PUC. For VoIP services that connect with the traditional telephone network, neither the FCC nor the states have generally required prior authorisation, although VoIP providers do have other regulatory obligations. PUC processes and requirements vary, with procedures less strict for long-distance services and more rigorous for local services. Although the FCC requires all interstate and international carriers to offer just and reasonable rates, terms and conditions, and prohibits unreasonable discrimination, in practice these are not significant constraints except for incumbent local exchange carriers.

Commercial mobile radio service (CMRS) providers must also obtain international section 214 authorisations to provide services between US and foreign points. States cannot regulate the rates or entry of CMRS providers, but can regulate other terms and conditions. The FCC prohibits tariffing of CMRS and does not regulate prices for such services. Facilities-based mobile service operators must obtain licences or leases to use RF spectrum, except where the FCC rules permit operation licence-exempt. Mobile service providers must also ensure that their handsets meet FCC interference, human radiation exposure, disabilities access and hearing aid compatibility requirements.

Satellite service providers similarly must obtain licences to use RF spectrum and must ensure that their handsets or antennae meet FCC interference requirements. If providing common-carrier services between US and foreign points, satellite service providers must also obtain international section 214 authorisations. They are not subject to state rate or market-entry regulation or to FCC price regulation.

Providers of domestic interstate or international telecommunications services (other than CMRS for domestic services) must obtain prior FCC consent to discontinue services. Prior FCC consent, and in some cases antitrust review, is also required to transfer ownership (as discussed in questions 50 to 54).

**8 Satellite facilities and submarine cables**

In addition to the requirements under question 7, do other rules apply to the establishment and operation of satellite earth station facilities and the landing of submarine cables?

Satellite space stations notified to the International Telecommunication Union by the United States or using US orbital slots, as well as transmit-receive earth stations, must be licensed by the FCC prior to launch or services commencement, respectively. Receive-only earth stations require only FCC registration. Earth stations in certain frequency bands are covered by blanket authorisations (ie, the FCC does not require individual licensing or registration). Foreign-licensed satellites may serve US earth stations on a streamlined basis if they appear on the FCC's Permitted Space Station List, but may also make an individualised market access showing in connection with transmissions to and from a specific earth station.

Before installing or operating undersea cable infrastructure in the United States or its territories, an operator must first receive a cable landing licence from the FCC, coordinated with the US Department of State, pursuant to the Cable Landing Licence Act of 1921. For an undersea cable to be operated on a common-carrier basis, the operator must also apply for and receive an international section 214 authorisation from the FCC, as described in question 7.

**9 Universal service obligations and financing**

Are there any universal service obligations? How is provision of these services financed?

Incumbent local exchange carriers (incumbent LECs) generally have state-imposed universal service obligations to meet all reasonable requests for service within their service area. The FCC also sets voice and broadband performance and service requirements for carriers that choose to receive explicit universal service funding. Some cable companies also have requirements in franchise agreements with local or state governments to build out their networks. The FCC has directed universal service subsidy recipients to provide broadband service at specialised levels. The FCC is also beginning to use reverse auctions to distribute universal service support to eligible carriers.

The federal Universal Service Fund (USF) supports the provision of telecommunications services in high-cost areas, to low-income consumers, to rural health-care providers and to schools and libraries. The federal USF is financed by an assessment on all end-user interstate and international telecommunications revenues earned by telecommunications carriers and voice over internet protocol (VoIP) providers sending and receiving calls from the traditional telephone networks (interconnected VoIP). The rate at which a provider must contribute to USF varies by quarter, reaching a high of 17.9 per cent in the first quarter of 2012, and from the first quarter 2012 to the first quarter of 2013 ranging from 15.7 to 17.9 per cent. Internet access is not subject to that fee. Determining which services are required to contribute directly and when is extremely complex.

Many states also require providers of intrastate telecommunications to contribute to state universal service programmes, and a few states require VoIP providers to contribute.

**10 Operator exclusivity and limits on licence numbers**

Are there any services granted exclusively to one operator or for which there are only a limited number of licences? If so, how long do such entitlements last?

The FCC does not limit the number of licences for telecommunications service providers. Regarding licences for RF spectrum, see questions 20 to 26. Some state PUCs refuse to grant operating authority to multiple intrastate telecommunications providers in rural areas.

**11 Structural or functional separation**

Is there a legal basis for requiring structural or functional separation between an operator's network and service activities? Has structural or functional separation been introduced or is it being contemplated?

No, the United States does not require carriers to maintain separate wholesale network and retail-service subsidiaries. In some cases the FCC or state PUCs require separation among service activities (eg, a US carrier affiliated with a carrier with market power in a foreign market must provide US-originating or terminating services to that foreign market through a subsidiary separate from the foreign carrier).

**12 Number portability**

Is number portability across networks possible? If so, is it obligatory?

The FCC requires telecommunications providers, including interconnected VoIP providers, to permit customers remaining within the same geographic area to switch between wire, wireless, and interconnected VoIP providers while keeping the same telephone number. All providers of telecommunications services and interconnected VoIP providers must pay fees to support number portability administration.

**13 Authorisation timescale**

Are licences or other authorisations required? How long does the licensing authority take to grant such licences or authorisations?

See questions 7 and 8 for a description of the US licensing regime for telecommunications services and infrastructure. Although the FCC has adopted detailed licensing timelines (for example, a 14-day streamlined review for most international section 214 applications, a 45-day streamlined review for most cable landing licence applications, and a statutory 30-day review for applications involving common-carrier wireless, mobile, and transmit-receive satellite earth station applications), these are typically suspended in cases involving aggregate foreign ownership exceeding 10 per cent, as Team Telecom (discussed in question 6) generally asks the FCC to defer action on such applications pending sometimes lengthy national-security reviews. See questions 50 to 54 for a description of the timing of consents for mergers, stock and asset-based acquisitions, and joint ventures (JVs) for the telecommunications and broadcasting sectors.

**14 Licence duration**

What is the normal duration of licences?

Licence durations vary by service and infrastructure type. International section 214 authorisations have no set term or expiration date. Cable landing licences have a 25-year term. Commercial wireless licences, private microwave and industrial wireless licences, and transmit-receive satellite earth station authorisations generally have 10-year terms. Space stations are generally authorised for 15-year terms, but Direct Broadcast Satellite authorisations are authorised only for 10 years. These licences are generally eligible for renewal so long as the licensee has complied with the relevant FCC service rules. Cable systems are generally authorised by local franchising authorities for a set term, subject to renewal.

**15 Fees**

What fees are payable for each type of authorisation?

The FCC assesses application processing fees for new and modified-licence applications involving telecommunications and broadcasting services and infrastructure, and for applications seeking consent for transactions involving transfers or assignments of FCC licences. The FCC also assesses annual regulatory fees for the providers it regulates. All of these fees vary by licence and service type; the FCC

revises application processing fees periodically and regulatory fees annually.

The FCC also assesses fees for a variety of federal programmes involving providers of interstate telecommunications and interconnected VoIP, including: federal universal service (as discussed in question 9); relay services for the hearing-impaired; numbering administration; and number portability. Non-interconnected VoIP providers (providers of VoIP services that interconnect with the PSTN but that cannot both send and receive calls) are also required to pay fees to support relay services for the hearing-impaired.

State and territorial fees and contributions vary by jurisdiction.

### 16 Modification and assignment of licence

How may licences be modified? Are licences assignable or able to be pledged as security for financing purposes?

FCC procedures and requirements for licence modifications vary significantly by licence type and service, and, in some cases, by whether the modification is 'major' or 'minor.' The FCC permits assignments of many types of licences, though it distinguishes between a pro forma assignment of a licence or transfer of control of a licensee (where ultimate control of the licence does not change, such as with an internal corporate reorganisation), and a substantial assignment or transfer of control to an unrelated third party. Substantial assignments and transfers of control generally require prior FCC consent.

FCC licences may not be pledged as security for financing purposes. Nevertheless, a lender may take a security interest in the proceeds of the sale of an FCC licensee. Lenders are also permitted to take a pledge of the shares of a company holding an FCC licence, though FCC consent must be obtained prior to a lender consummating any post-default transfer of control of an FCC licensee or assignment of an FCC licence. In structuring arrangements for protection in the event of a borrower default or insolvency, lenders, security-interest holders, and FCC licensees need to be mindful of the FCC's rules on security interests and requirements for approval of transfers of control and assignments, whether voluntary or involuntary.

### 17 Retail tariffs

Are national retail tariffs regulated? If so, which operators' tariffs are regulated and how?

The FCC generally prohibits filing of tariffs for almost all retail domestic interstate and international telecommunications services, except for certain specialised situations, local exchange carriers (both incumbents and non-incumbents) providing an interstate access service (access to local networks for origination or termination of non-local traffic), providers of international telecommunications services regulated as dominant (ie, having market power) on particular routes to particular foreign countries, and certain services where tariffing is optional. State PUCs typically require tariffing of local-exchange and intrastate long-distance services.

### 18 Customer terms and conditions

Must customer terms and conditions be filed with, or approved by, the regulator or other body? Are customer terms and conditions subject to specific rules?

States regulate customer terms and conditions for intrastate, including local, services, frequently with advance filing or approval. The FCC does not require the advance filing of customer terms and conditions for any interstate services, other than a portion of local telephone service. Both the FCC and state PUCs generally require terms and conditions that are reasonable and non-misleading.

For non-common carrier services and prepaid phone cards, sold and distributed by non-carriers, the FTC also has jurisdiction to regulate misleading or unfair terms and conditions. The states' attorneys general also police false, misleading, or unfair terms and conditions. Neither the FTC nor state attorneys general require advance filing or approval.

### 19 Changes to telecoms law

Are any major changes planned to the telecoms laws?

Fundamental changes to telecoms laws are unlikely in the near future, particularly after the passage in early 2012 of federal legislation on spectrum management, which provided the FCC the authority to conduct a two-sided auction for flexible use of broadcast spectrum and to share a portion of the proceeds with broadcasters choosing to relinquish spectrum rights. There has been some discussion that Congress may begin considering an overhaul of telecommunications laws in 2013 – particularly to reflect a transition to IP-based networks – but this is a long process, and the results of the 2012 election make passage of comprehensive legislation less likely. In the nearer term, Congress can be expected to begin considering the reauthorisation of satellite-specific copyright legislation that otherwise expires at the end of 2014. Such legislation may ultimately address the relationship between programmers, traditional video distributors, and internet-based video distribution systems, although it is too early to predict more exact parameters. Otherwise, Congress may address cyber security and updates of the Electronic Communications Privacy Act (law enforcement warrants) or the Communications Assistance for Law Enforcement Act (technology rules to facilitate law enforcement access to communications). Given the divided nature of the current Congress, however, the prospects for final passage of even these more specific legislative efforts are limited.

## Telecoms regulation – mobile

### 20 Radio frequency (RF) requirements

For wireless services, are radio frequency (RF) licences required in addition to telecoms services authorisations and are they available on a competitive or non-competitive basis? How are RF licences allocated? Do RF licences restrict the use of the licensed spectrum?

In addition to telecoms services authorisations, facilities-based wireless service providers must have an RF licence, unless they operate exclusively in licence-exempt bands. In most circumstances, the FCC must grant terrestrial RF licences by auction if there are two or more competing applications. Pre-auction FCC rulemakings establish spectrum blocks to be auctioned, geographic areas covered, licence terms, service rules including technical and interference-related rules, and network build-out rules. In some cases, the FCC limits the entities eligible to participate in the auction. Some satellite services do not require an auction. In bands designated for licence-exempt use, users can operate under specific technical rules without an FCC licence.

### 21 Radio spectrum

Is there a regulatory framework for the assignment of unused radio spectrum (refarming)? Do RF licences generally specify the permitted use of the licensed spectrum or can RF licences for some spectrum leave the permitted use unrestricted?

The FCC has the authority to reallocate (change the permitted use or permitted class of user) or reassign (change the entity authorised to use particular frequencies in a particular geography) RF spectrum. The FCC is more likely to consider such changes when changes in technology or the marketplace render its rules obsolete. The FCC may also revoke a licence for failure to meet licensee qualification or fitness requirements, for violations of FCC build-out rules, or in situations when a licensee voluntarily returns its authorisation. FCC rules specify the permitted use of most licensed spectrum. However, more recently the FCC has made spectrum available without detailed use restrictions, instead setting technical rules related to interference, but leaving flexible the use of the spectrum and facilitating spectrum

leasing and trading. Relative to the licence-exempt use of available broadcast spectrum, the FCC has granted approval for two private-sector managers to operate their geolocation databases to provide service to certified unlicensed devices that operate in the broadcast television bands where they have coordinated with local authorities and other local stakeholders. In 2012, the FCC certified a radio for licence-exempt use with the white space databases, the managers of which have demonstrated the ability to synchronise with each other. The FCC also announced a process through which parties responsible for large entertainment, sports, or similar venues may request online FCC registrations for protection from TV white space devices at venues where unlicensed wireless microphones are used.

**22 Spectrum trading**

Is licensed RF spectrum tradable?

In order to encourage efficient use of spectrum in secondary markets, the FCC permits spectrum licences to be transferred or assigned, subject to FCC consent (as explained in questions 50 to 54) so long as speculation is not the principal purpose the transaction. In approving any transfer or assignment of spectrum, the FCC considers competition, spectrum-aggregation, and prior compliance issues. The FCC permits partitioning (assignments of the licence in part of the licensed areas) and disaggregation (assignments of some, but not all, frequencies in the licensed area) subject to FCC consent. The FCC also permits leasing of RF spectrum, with the nature of the FCC review depending on the nature of the lease.

**23 Mobile virtual network operator (MVNO) and national roaming traffic**

Are any mobile network operators expressly obliged to carry MVNO or national roaming traffic?

The FCC does not require mobile network operators to offer resale or roaming arrangements to MVNOs. However, it does require facilities-based carriers to offer other facilities-based carriers voice roaming upon reasonable request and on a 'just, reasonable, and non-discriminatory' basis, and data roaming on 'commercially reasonable terms and conditions,' subject to certain limitations.

**24 Mobile call termination**

Does the originating calling party or the receiving party pay for the charges to terminate a call on mobile networks? Is call termination regulated, and, if so, how?

US carriers generally follow a receiving-party-pays model for termination of calls on mobile networks. The FCC does not regulate carriers' decisions on whether to charge the calling party or the receiving party for origination or termination on mobile networks. Landline termination of mobile originated calls generally follows a calling party's carrier pays model, although the FCC is transitioning to a regime without inter-carrier origination and termination charges.

**25 International mobile roaming**

Are wholesale and retail charges for international mobile roaming regulated?

The FCC does not specifically regulate wholesale or retail charges for international mobile roaming, though international roaming charges are subject to general just-and-reasonable-offering and non-discrimination requirements for telecommunications services.

**26 Next-generation mobile services**

Is there any regulation for the roll-out of 3G, 3.5G or 4G mobile services?

The FCC does not require carriers to use particular commercial mobile air interfaces or generations of such air interfaces. Individual RF spectrum bands or licences may include build-out requirements.

## Telecoms regulation – fixed infrastructure

**27 Cable networks**

Is ownership of cable networks, in particular by telecoms operators, restricted?

Neither the FCC nor state or local franchising authorities impose foreign-ownership or other ownership restrictions on cable networks, though the transfer and assignment of cable franchises almost always requires prior consent of the franchising authority. The FCC restricts acquisition of local exchange carriers by cable operators in the same area, and vice versa.

**28 Local loop**

Is there any specific rule regarding access to the local loop or local loop unbundling? What type of local loop is covered?

Incumbent LECs must unbundle the entire time division multiplexed function of the loop, or must provide access to spare home run copper loops. Advanced fibre loops and packet-switched features of loops are not required to be unbundled.

**29 Interconnection and access**

How is interconnection regulated? Can the regulator intervene to resolve disputes between operators? Are wholesale (interconnect) prices controlled and, if so, how? Are wholesale access services regulated, and, if so, how?

All telecommunications carriers are required to negotiate direct or indirect interconnection with all other telecommunications carriers, at least with respect to interconnection in time-division multiplexed (TDM) form as distinguished from IP-to-IP interconnection. All LECs (both incumbent and non-incumbent) are required to enter into traffic exchange agreements (often called reciprocal compensation agreements) with other telecommunications carriers. All incumbent LECs must negotiate direct interconnection with any requesting telecommunications carrier at any technically feasible point. Interconnection arrangements between incumbent LECs and other carriers are subject to arbitration by state public utility commissions, with prices subject to cost-based requirements. However, these agreements frequently cover only the exchange of local telecommunications traffic. The origination or termination of long distance calls is subject to a separate interconnection and traffic exchange system, called 'access charges,' described further below.

For CMRS, either the CMRS carrier or the incumbent LEC can request arbitration of the formation of the interconnection agreement by the state public utility commission. Interconnection arrangements between CMRS carriers and non-incumbent LECs, and between two non-incumbent LECs, are generally not subject to arbitration by the state public utility commission or any other regulator. Beginning in July 2012, the default traffic-exchange arrangement between a CMRS carrier and an incumbent LEC for traffic within the boundaries of a major trading area will be bill-and-keep (ie, no usage-based compensation will be paid). Intercarrier compensation for traffic that crosses Major Trading Area boundaries is subject to the 'access charge' system.

'Access charges' is a system of tariffed interconnection and compensation under which LECs charge long-distance or CMRS carriers for the origination or termination of long-distance (but not

local) traffic. The rates, terms, and conditions for access charges for long distance interstate and international calls are regulated by the FCC. The rates, terms, and conditions for access charges for intrastate long distance calls are regulated, if at all, by the state public utility commissions. The FCC is phasing out the access charge system in favour of a unified traffic exchange system that will eliminate termination, and possibly origination, charges. Unless truncated by the courts or subsequent FCC rule changes, terminating access charges will be eliminated in most areas by July 2018 and in all areas by July 2020. The FCC has not established a timeframe for the reduction of originating access charges.

### 30 Next-generation access (NGA) networks

How are NGA networks regulated?

The FCC treats all broadband internet access networks, such as ISPs as information services subject only to minimal regulation, rather than as common carriers (as discussed in question 7). Nevertheless, the FCC prohibits traffic blocking by all ISPs and unreasonable discrimination in the transmission of traffic across their internet access networks by fixed-line ISPs (see question 32). The FCC also requires internet access networks to comply with surveillance and law-enforcement assistance requirements, as described in question 47. The FCC generally has declined to regulate internet backbone networks or backbone traffic-exchange arrangements (ie, peering agreements).

## Telecoms regulation – internet services

### 31 Internet services

How are internet services, including voice over the internet, regulated?

Internet services are generally not subject to extensive regulation in the United States. Internet access services are not treated as common-carrier services but instead as non-regulated information services, except if a provider chooses to offer internet access transmission as a common-carrier service.

Interconnected VoIP (VoIP services that can place calls to and receive calls from the traditional telephone network) must comply with significant regulatory requirements, including those for law enforcement access, emergency calling, universal service funding, disability access, funding of telecommunications services for the deaf, customer privacy, number portability service discontinuance, and outage reporting. The FCC, however, pre-empted state PUC regulation of at least nomadic interconnected VoIP services (those that can be used at more than one fixed site). Some PUCs assert authority to regulate fixed interconnected VoIP services.

VoIP services that can only send or receive calls (but not both) from the traditional telephone network (referred to as 'non-interconnected VoIP') are also assessed fees to support telecommunications services for the deaf. The FCC is considering whether to extend additional regulatory obligations to non-interconnected VoIP, including the obligation to contribute to the support of universal service programmes and for automatic routing and location identification for 911 and E911 calls.

As of 8 October 2013, various products and services that are provided over the internet will be required to comply with the Twenty-First Century Communications and Video Accessibility Act (CVAA). The CVAA extended accessibility requirements to television shows distributed online, 'advanced communication services' (ACS), which include interconnected VoIP, non-interconnected VoIP, electronic messaging services (including e-mail, instant messenger (IM) and text (SMS) messages, but unclear with respect to messaging contained in social media applications), interoperable videoconferencing services and mobile internet browsers. Traditional TV networks and their online distribution partners must provide closed captions for any TV content made available online, while ACS and mobile internet browsers must be accessible to individuals with disabilities, including individuals with limited or no hearing or sight, as well as other limitations, if that accessibility is achievable. Achievability of accessibility is determined by consideration of the nature and cost of the steps needed to include the feature, the technical and economic impact on the operation of the company and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies, the type of operations of the entity, and the extent to which the company offers accessible services or equipment containing varying degrees of functionality and features and offered at differing price points.

Interconnected VoIP services were already subject to accessibility requirements under section 255 of the Communications Act, which covers traditional telephone equipment and services, and the FCC has determined that those older requirements will continue to apply to that service, instead of the new CVAA requirements. The FCC is still considering what services are to be considered 'interoperable videoconferencing services'. The FCC's implementing rules for the remainder of those services considered ACS – non-interconnected VoIP and electronic messaging services – become effective on 8 October 2013, along with the mobile internet browser requirements. The online captioning requirements, meanwhile, went into effect on 8 September 2012. The CVAA also introduced record-keeping provisions, which require manufacturers and service providers to document their efforts to consider accessibility in the design and development of their products – and those took effect on 30 January 2013.

### 32 Internet service provision

Are there limits on an internet service provider's freedom to control or prioritise the type or source of data that it delivers? Are there any other specific regulations or guidelines on net neutrality?

Yes, the FCC has adopted rules imposing three fundamental obligations on mass market broadband ISPs: transparency; no blocking; and no unreasonable discrimination.

#### Transparency

Broadband ISPs must publicly disclose accurate information regarding network management practices, network performance, and commercial terms governing their broadband internet access services.

#### No blocking

Fixed ISPs must not block lawful content, applications, services, or non-harmful devices. Mobile ISPs must not block access to lawful websites or applications that compete with the provider's voice or video telephony services, including services provided by entities in which the provider has an 'attributable interest.' Blocking includes degradation that would render content, applications, services, or devices 'effectively unusable' and includes the practice of charging a fee for unblocking. ISPs may, however, engage in 'reasonable network management,' which is network management 'appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.'

#### No unreasonable discrimination

Fixed ISPs must not 'unreasonably discriminate' in transmitting lawful traffic, again subject to exceptions for reasonable network management. Usage-based or tiered pricing does not constitute unreasonable discrimination as long as it is not anti-competitive. ISPs may also prioritise emergency communications. Because the rules protect lawful content, they do not prohibit efforts to address copyright infringement or other illegal activities.

**33 Financing of basic broadband and NGA networks**

Is there a government financial scheme to promote basic broadband or NGA broadband penetration?

In 2012, the FCC modified its Universal Service Fund to require carriers that receive support to provide broadband as well as voice services and to expand coverage and throughput speeds. Much of this remains in development.

The Rural Utilities Service of the US Department of Agriculture also provides loans and grants to support next-generation network deployment in rural areas.

## Media regulation

**34 Ownership restrictions**

Is the ownership or control of broadcasters restricted? May foreign investors participate in broadcasting activities in your jurisdiction?

Media ownership is subject to restrictions, including limits on: ownership of multiple broadcast television stations in a single market; ownership of broadcast television stations reaching a certain percentage of the population; ownership of broadcast radio stations within a local market; cross-ownership of broadcast television and radio stations within a local market; cross-ownership of broadcast television or radio stations and newspapers in the same geographic area; service to a certain percentage of the population by a single cable operator; ownership by a cable operator of a certain percentage of the channels it carries; ownership of two or more of the 'top four' television networks (ABC, CBS, FOX and NBC).

Regardless of WTO status, section 310 of the Communications Act prohibits a foreign government, corporation organised under foreign law, non-US citizen or representative of a foreign government or non-US citizen from directly holding a broadcast licence. Section 310(b)(3) limits direct foreign ownership in a US corporation holding a broadcast licence to 20 per cent, a limitation the Communications Act does not permit the FCC to waive. Section 310(b)(4) prohibits indirect foreign ownership in a broadcast or aeronautical licensee in excess of 25 per cent, unless the FCC finds that greater foreign ownership would serve the public interest The FCC, however, has never knowingly authorised indirect foreign ownership of a broadcast licensee in excess of 25 per cent.

In enforcing all of these ownership rules, the FCC applies a complicated set of 'attribution' rules that include a broad range of financial or other interests denoting ownership, control and influence.

**35 Cross-ownership**

Are there any regulations in relation to the cross-ownership of media companies, including radio, television and newspapers? Is there any suggestion of change to regulation of such cross-ownership given the emergence of 'new media' platforms?

Please see question 34.

**36 Licensing requirements**

What are the licensing requirements for broadcasting, including the fees payable and the timescale for the necessary authorisations?

Television and radio stations are licensed individually. Cable systems are not 'licensed' by the FCC, but instead are 'franchised' by state and local governments. Cable systems, however, nearly always use satellite or wireless infrastructure licensed by the FCC. Direct-to-home satellites and certain satellite earth stations are licensed by the FCC. Licence applicants must pay an application fee, which depends on the asset to be licensed.

As new licences are often unavailable or difficult to obtain, entities typically obtain broadcast, cable, and satellite assets through an assignment of the licence or a transfer of control of the entity controlling the licence, subject to the consent requirements described in questions 50 to 54.

**37 Foreign programmes and local content requirements**

Are there any regulations concerning the broadcasting of foreign-produced programmes? Do the rules require a minimum amount of local content? What types of media are outside of this regime?

The United States does not regulate the broadcasting of foreign-produced programmes or impose local content requirements (except for low-power broadcasters). Cable operators must often carry public, educational, and governmental programming chosen by the local franchising authority. Satellite carriers are subject to a similar public interest allocation. Broadcasters must air certain amounts of children's programming. Over-the-air broadcasters (but not cable and satellite carriers) are also subject to certain restrictions on indecent programming.

**38 Advertising**

How is broadcast media advertising regulated? Is online advertising subject to the same regulation?

Broadcast television is subject to FCC restrictions on: advertising in children's programming; advertising of tobacco products; and advertising of lotteries and certain games of chance. The FTC (among other entities) prohibits all entities from engaging in false and misleading advertising, regardless of the technology used. The FTC also enforces the CAN-SPAM Act, which restricts commercial e-mails.

**39 Must-carry obligations**

Are there regulations specifying a basic package of programmes that must be carried by operators' broadcasting distribution networks? Is there a mechanism for financing the costs of such obligations?

Cable operators (and, with slight modifications, direct-to-home satellite providers) are subject to must-carry obligations.

Full-power, commercial broadcast television stations must submit an election to each distributor (cable or satellite operator) in its 'local market' every three years. Those that elect 'must-carry' receive automatic carriage (with some exceptions), but no money can be exchanged. Those that elect 'retransmission consent' cannot be carried by distributors in the absence of a written agreement, but can be refused carriage. In many, but not all, cases distributors must pay such 'retransmission consent stations' for carriage rights. Neither the must-carry nor the retransmission consent regime covers copyright issues, which are handled under separate highly complex statutory licences.

**40 Changes to the broadcasting laws**

Are there any changes planned to the broadcasting laws? In particular, do the regulations relating to traditional broadcast activities also apply to broadcasting to mobile devices or are there specific rules for those services?

With respect to laws governing over-the-air broadcasting, Congress in 2012 enacted legislation to permit two-sided auctions of broadcast spectrum to allow existing licensees to sell their spectrum through an FCC-organised process for use in mobile or broadband applications. The FCC is currently developing rules to implement those auctions and, potentially, to require some broadcasters to relocate to 're-pack' spectrum more efficiently. As discussed in question 19, certain copyright provisions related to satellite carriage expire at the end of 2014. Congress may or may not address broader issues of broadcast regulation should it decide to reauthorise those provisions.

Broadcasting to mobile devices is not subject to the same FCC rules as traditional over-the-air broadcasting, but copyright laws apply. As such delivery becomes more common, however, some changes can be expected. Notably, the FCC will now require some programming delivered to certain mobile devices to be close-captioned, and will require such devices to decode and render such captioning.

**41 Regulation of new media content**

Is new media content and its delivery regulated differently from traditional broadcast media? How?

New media content is very lightly regulated compared to content delivered by over-the-air broadcasting, cable, and satellite. That said, as new media delivery begins to compete with and replace more traditional modes of delivery, we expect the government to increasingly apply regulations. As described above, the first serious effort in this direction has to do with closed captioning, video description, and other issues related to disabilities access.

**42 Digital switchover**

When is the switchover from analogue to digital broadcasting required or when did it occur? How will radio frequencies freed up by the switchover be reallocated?

The switchover for most broadcast television stations occurred in 2009. Low-power stations, however, still transmit in analogue. The FCC reallocated that spectrum to commercial mobile services, some of which remains to be auctioned, and to a nationwide public safety network.

**43 Digital formats**

Does regulation restrict how broadcasters can use their spectrum (multichannelling, high definition, data services)?

No, but broadcasters must retain at least one channel of free, over-the-air broadcast programming; and remit 5 per cent of any income derived from ancillary services.

## Regulatory agencies

**44 Regulatory agencies**

Which body or bodies regulate the communications sector? Is the telecoms regulator separate from the broadcasting regulator?

See question 1.

**45 Establishment of regulatory agencies**

How is each regulator established and to what extent is it independent of network operators, service providers and government?

The FCC, FTC, DOJ, and the CFIUS are all established by federal law. Team Telecom is an informal working group of Executive Branch departments that does not act pursuant to any particular law. State public utility commissions and local cable franchising authorities are established by state law or local ordinance. All of these entities are independent of network operators and service providers.

**46 Appeal procedure**

How can decisions of the regulators be challenged and on what bases?

Final FCC decisions (including new or revised FCC rules) are subject to judicial review. In reviewing licensing and rule-making decisions, courts evaluate whether the FCC acted arbitrarily, capriciously or otherwise not in accordance with the law. Courts defer to the FCC's reasonable interpretation of ambiguous statutory provisions. Decisions by FCC bureaus are subject to review by the FCC's commissioners; such review must be completed prior to any judicial review. Enforcement actions are subject to de novo review in federal trial courts, unless the FCC held an evidentiary hearing.

## Data retention, interception and use

**47 Interception and data protection**

Do any special rules require operators to assist government in certain conditions to intercept telecommunications messages? Explain the interaction between interception and data protection and privacy laws.

The Communications Assistance for Law Enforcement Act (CALEA) requires telecommunications providers (including interconnected VoIP providers), equipment manufacturers and support service providers to cooperate with authorised electronic surveillance needs of law enforcement and national security agencies. Subject providers must have the capability to enable properly authorised law enforcement officials to intercept communications and obtain call-identifying information from their customers, as well as the capacity to meet the surveillance needs of properly authorised law enforcement officials. Pursuant to a court order or other lawful authorisation, carriers must be able to:

- expeditiously isolate all wire and electronic communications of a target transmitted by the carrier within its service area;
- expeditiously isolate call-identifying information of a target;
- provide intercepted communications and call-identifying information to law enforcement; and
- carry out intercepts unobtrusively, so targets are not made aware of the electronic surveillance, and in a manner that does not compromise the privacy and security of other communications.

CALEA requires carriers to protect the privacy and security of communications and call-identifying information that has not been authorised for interception. Failure to comply with the CALEA obligations can result in civil penalties. The attorney general may enforce these obligations by seeking an order from a federal district court.

Federal privacy statutes generally require carriers and providers to disclose certain consumer information in response to lawful government processes. Statutes differ on whether consumers must be notified and given an opportunity to challenge the disclosure. Congress is likely to consider ECPA reform again in 2013, including potential limitations on access to certain stored communications, but political divisions make significant changes unlikely.

**48 Data retention and disclosure obligations**

What are the obligations for operators and service providers to retain customer data? What are the corresponding disclosure obligations? Will they be compensated for their efforts?

Federal regulations require each telecommunications common carrier that offers or bills toll telephone service to retain billing-record data for a period of 18 months. Carriers are required to protect the confidentiality of such data except as otherwise required by law. Under the Electronic Communications Privacy Act, the US government may require an ISP to preserve communications in its possession for up to 180 days pending issuance of a court order or other legal process. Some form of cyber security law or rules is likely, possibly an executive order issued by the president, and may include recommendations for industry to share cyber security data with the government.

**49 Unsolicited communications**

Does regulation prohibit unsolicited communications? Are there exceptions to the prohibition?

Federal and state laws prohibit unsolicited communications by telephone, fax, e-mail, or SMS (text message), except for categories of service

**Update and trends**

**Migration from TDM to IP networks**
The FCC is beginning to explore whether it can force all carriers to migrate from TDM networks to IP networks. Sometimes referred to as the 'sunset of the PSTN', this transformation, and its regulatory consequences, will increasingly draw FCC attention.

**Internet services regulation**
Internet services are increasingly subject to regulation. The FCC's no-blocking and non-discrimination requirements on ISPs took effect in late 2011, and key court decisions are expected in 2013. The FCC has already extended most social and security-related regulatory requirements to interconnected VoIP, and is considering extending these to non-interconnected VoIP.

**Regulation of 'Over-the-Top' (OTT) providers**
Part of the increase in regulation of internet services, OTT services, which are delivered via a broadband connection, are increasingly being considered for regulation as they are challenging traditional telecommunications carriers (especially in the areas of VoIP and IP-based text messaging) and multichannel video programming distributors such as cable and direct-to-home satellite (especially in the areas of on-demand and premium content). For example, in the area of media regulation, the FCC is considering whether certain regulatory burdens (such as equal employment opportunity compliance, programme carriage requirements and retransmission consent obligations) should be imposed on OTT services. Similarly, Congress and the FCC have begun to extend to OTT a range of rules historically reserved for carriers. As OTT providers become more established and provide services more comparable to traditional distributors, it is likely that the question of how best to regulate them will gain additional urgency.

**Aggressive efforts to free spectrum resources for broadband services**
Congress, the administration and the FCC will continue to push hard to find ways of delivering new spectrum resources to support booming consumer demand for wireless broadband services. In 2013, the FCC will consider how to implement the first ever 'incentive' auction, which includes a 'reverse auction' (in which broadcasters will offer to relinquish spectrum usage rights for a named price), a 'forward auction' (where bidders will compete to purchase the frequency ranges freed by the reverse auction), a band plan for a new 600MHz band that includes both licensed spectrum and licence-exempt spectrum, and a process for repacking remaining broadcast licences so as to create contiguous blocks to auction or designate for licence-exempt uses. Efforts will also continue to transfer additional spectrum bands from exclusive federal government use to exclusive private use, as well as additional sharing of bands between government users and the private sector where clean transfers are not possible.

**Continued austerity for subsidy and intercarrier payments**
The FCC has commenced a transition of all intercarrier termination charges to 'bill-and-keep', and is also revising its subsidies for service to rural areas. The FCC is eliminating most mobile subsidies, limiting subsidies for small carriers, and migrating large carrier subsidies to broadband in addition to voice. The Commission will continue to fine-tune these measures as the consequences of its new rules become more apparent.

**National security**
The US national security reviews by Team Telecom and CFIUS continue to generate considerable anxiety among foreign investors and equipment and software suppliers considering US entry. Notwithstanding US WTO commitments to make publicly available the licensing criteria and 'the period of time normally required to reach a decision concerning an application for a license', there is little predictability in the process or timing for obtaining a new licence or transaction approval involving foreign investment in a telecommunications provider. Reviews and conditions can affect corporate governance, personnel, and other operational matters. These agencies subject investments from particular countries (eg, China and the Gulf states) and by sovereign wealth funds to considerable scrutiny. These agencies and various committees of the US Congress also increasingly scrutinise equipment and software procurements – particularly from Chinese vendors – by investors and acquisition targets. Although the supply arrangements do not require direct US government approval, the US government can nevertheless foreclose supply opportunities indirectly by imposing market-entry conditions on investors. In rare circumstances, the US government has sought to pressure US carriers in procurements unrelated to foreign-investment transactions, particularly where US government agencies are customers of the carriers.

**Accessibility regulation**
The government is aggressively increasing obligations on service providers and manufacturers to make telecommunications and media services and devices accessible to people with disabilities. New rules impose technologically specific mandates, tight timeframes and substantial penalties for non-compliance.

to which customers already subscribe, although telecommunications service providers may, subject to certain restrictions, send marketing communications to their customers. Enforcement occurs through FCC, FTC, and state-government actions, and through private lawsuits.

## Competition and merger control

### 50 Competition and telecoms and broadcasting regulation

What is the scope of the general competition authority and the sectoral regulators in the telecoms, broadcasting and new media sectors? Are there mechanisms to avoid conflicting jurisdiction? Is there a specific mechanism to ensure the consistent application of competition and sectoral regulation? Are there special rules for this sector and how do competition regulators handle the interaction of old and new media?

The DOJ and FTC regulate vertical and horizontal anti-competitive effects in the telecoms, broadcasting, and new media sectors pursuant to general US antitrust laws, particularly the Sherman and Clayton Acts. The FTC also regulates unfair and deceptive trade practices in these and other sectors pursuant to the Federal Trade Commission Act. The FCC regulates competition-related issues in the telecommunications and broadcasting sectors under the Communications Act's public interest standard. State attorneys general enforce state-level competition and consumer protection laws, and private litigants enforce federal and state competition laws through damages claims. While there is no single mechanism to ensure the consistent treatment of competition-related issues, the DOJ, FTC and FCC regularly coordinate their reviews in an attempt to avoid conflicting results and undue delay. State and local authorities generally operate independently of the DOJ, FTC and FCC.

### 51 Competition law in the telecoms and broadcasting sectors

Are anti-competitive practices in these sectors controlled by regulation or general competition law? Which regulator controls these practices?

Anti-competitive practices are controlled both through ex ante and ex post, sector-specific regulation, and by general competition (ie, antitrust) law. Jurisdiction among all regulators is concurrent.

### 52 Jurisdictional thresholds for review

What are the jurisdictional thresholds and substantive tests for regulatory or competition law review of telecoms sector mergers, acquisitions and joint ventures? Do these differ for transactions in the broadcasting and new media sector?

All mergers, acquisitions and joint ventures that involve the transfer or assignment of FCC licences (including service under the blanket domestic common carrier authorisation) require prior approval under the Communications Act, regardless of whether such transactions

involve the telecoms, broadcasting, or new media sectors. While the antitrust laws generally do not have a minimum jurisdictional threshold, the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act) requires that the DOJ and FTC receive pre-merger notification if the transaction meets the 'size of transaction' or 'size of persons' thresholds. As of 11 February 2013, a transaction must be notified if it is valued at more than US$70.9 million or if one of the parties has sales or assets of at least US$141.8 million and the other party has sales or assets of at least US$14.2 million.

**53 Merger control authorities**

Which regulatory or competition authorities are responsible for the review of mergers, acquisitions and joint ventures in the telecoms, broadcasting and new media sectors?

As discussed in question 52, pursuant to the HSR Act, DOJ and the FTC share jurisdiction for reviewing all mergers, acquisitions, and JVs involving providers of telecommunications, broadcasting, and new media, with the lead reviewing agency determined by sector or by transaction. The FCC, PUCs, and state or local franchising authorities also review mergers, acquisitions (including asset sales and licence transfers), and JVs that involve authorisations or franchises that they issue. Each of these processes is separate.

The Team Telecom agencies (as described in question 6) conduct national-security reviews of mergers and acquisitions in the telecoms and broadcasting sectors (and the new media sector, if there are FCC licences to be transferred or assigned in the transaction) and often require negotiation of security agreements or assurances letters prior to consummation. The Team Telecom agencies do not act pursuant to any particular law.

Pursuant to section 721 of the Defense Production Act of 1950, the CFIUS reviews acquisitions of control (including mergers, acquisitions of stock or assets, and JVs) by foreign persons of existing US businesses engaged in interstate commerce in any economic sector (known as 'covered transactions). The CFIUS scrutinises the impact of a transaction on national security and gives particular attention to foreign (and foreign-government) ownership of the acquirer and the US business's contracts benefiting US government agencies. CFIUS reviews are initiated by parties to a transaction or the CFIUS itself. Failure to obtain CFIUS clearance for a covered transaction gives the president the power to unwind the transaction at any point in the future. Unlike the FCC, which defines 'control' as majority equity ownership, voting control, or management control, the CFIUS may consider as 'control' any prospective investment other than the acquisition of an outstanding voting interest of 10 per cent or less acquired solely for the purpose of passive investment. For a transaction involving CFIUS or Team Telecom review, the FCC will generally not grant consent without prior clearance by Team Telecom and the CFIUS.

**54 Procedure and timescale**

What are the procedures and associated timescales for review and approval of telecoms and broadcasting mergers, acquisitions and joint ventures?

DOJ and FTC reviews are generally subject to a minimum 30-day initial review period. In transactions subject to a 'second request' of the parties, the review can take significantly longer.

For 'major transactions' involving significant competition or public-interest issues, the FCC reviews transactions pursuant to a suggested 180-day time frame, though it often stops and later restarts the clock, resulting in a lengthier review. For routine transactions, the specific procedures and timescales for approving licence transfers and assignments vary by licence type and by FCC bureau. The procedures and associated timescales for state and local reviews of transactions involving intrastate telecommunications providers and cable operators vary greatly from jurisdiction to jurisdiction; these state or local reviews, however, can take longer than the FCC's review.

There are no formal procedures or established timescales for Team Telecom reviews, which can last from a few weeks to 18 months. The CFIUS conducts an initial 30-day review of a covered transaction (as defined in question 53). It may subsequently conduct a 45-day investigation for a transaction involving more significant national security issues (and must do so for transactions that would result in foreign government control of a US business), with a further 15 days for presidential action to block a transaction. In total, the CFIUS process should not last more than 90 days, although parties sometimes withdraw and refile transactions in order to provide the CFIUS with additional time for review.

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