



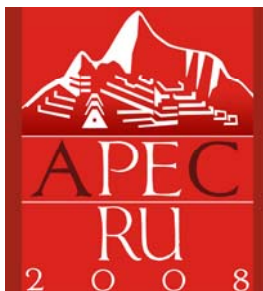
**Asia-Pacific  
Economic Cooperation**

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**2008/TEL38/LSG/018**  
Agenda Item: 4b

## **Report: Engaging Stakeholders Workshop**

Purpose: Consideration  
Submitted by: United States



**Liberalization Steering Group (LSG) Meeting**  
**Lima, Peru**  
**15-16 October 2008**

## **Report: Engaging Stakeholders Workshop**

**APEC TEL 38 - Lima, Peru  
Tuesday, October 14, 2008  
9 a.m. to 5 p.m.**

### **Introduction**

The goal of this workshop was to examine and facilitate the interaction between regulators, policymakers, end users, consumers, and industry. The genesis of this workshop was a discussion at the Liberalization Steering Group (LSG) where participants wished to examine the linkages between the LSG's policy/regulatory frameworks, consumer issues, next generation networks, and universal service work.

### **Workshop Proceedings**

#### *Opening Remarks*

The Chair, Mr. Guillermo Thornberry Villarán, Chairman of the Board, Organismo Supervisor de Inversión Privada en Telecomunicaciones (OSIPTEL), Peru, gave opening remarks. He spoke about the importance of this workshop, given that regulators must be able to adapt to radical changes in the market. In Peru specifically, the number of mobile phones has doubled in the last 18 months. In the midst of these changes, the regulator has to decide what responsibilities it has. It is important to keep the market attractive to investment, but consumers' needs must be met as well. The regulator has to maintain confidence and predictability, despite the tumult caused by convergence. Mr. Thornberry proposed that the group should think about how different stakeholders see convergence, how regulators can contribute to convergence, and how styles of regulation will have to change due to convergence. He also said that we cannot overlook cross-border issues that have come about due to the increasingly global nature of communications.

#### *Presentations*

Then the group heard five presentations on the themes of discussion for the day.

#### 1) Consulting Stakeholders During a Proceeding

- Ivana Kriznic, Head of Regulatory and Government Affairs, Latin America and the Caribbean, British Telecom

Ms. Kriznic presented examples of consultation processes in Latin America. Almost all regulators in Latin America are legally required to follow open and public consultation proceedings to effect changes to existing regulations or issue new regulations. There is significant variation in terms of the manner and scope of consultations. The Website of Brazil's regulator, Anatel, has a dedicated section on public consultations. Anatel makes available on the website a complete list of open consultations and the relevant documents. Colombia has an intensive use of public consultations. Colombian regulator CRT is legally required to publish on

their website at least 30 days before the effective date, any proposed rules they wish to enact, including proposed text and the invitation for the interested parties and competition authorities to file comments. Interested parties must be given at least 10 days to submit comments. Peru is an excellent showcase for best practices. Article 27 of OSIPTEL General ruling determines that as a condition for the approval of regulatory decisions of general scope the proposed rules must be published in a Peruvian newspaper so that interested parties can file comments. Even in countries like Venezuela where the industry is concerned about the independence of the regulator CONATEL from the political power, consultation proceedings are being fully respected. To close, Ms. Kriznic posed two questions: *Would it make the process more productive if comments are restricted to licensees and potential new entrants? Should consultations results be “binding” on the regulator?*

- Masayasu Nakano, Director, Multilateral Economic Cooperation Office, Ministry of Internal Affairs and Communication, Japan

Mr. Nakano presented on Japan’s process for consulting stakeholders during a proceeding. Japan’s legal structure is made up of 3 layers – the law, cabinet orders, and ministry ordinance. Japan has found that consultation with stakeholders reduces mistakes and makes decisions more relevant. The law standardizing public consultations was adopted in 2006. In a consultation, a draft proposal goes to an expert council, and then to public consultation. The council is an advisory board – made up of academics, business leaders, and others – to the Minister. MIC has more than 10 councils that cover various topics. When the draft decision is released to the public, there is a 30-day window for comment. One year after the consultation law was adopted, there were 358 proposals that garnered no comments. It is unclear if that is because of lack of interest, or because of lack of outreach/education to stakeholders. Critics say that 30 days is too short for a comment period, that is isn’t clear if the government is really listening to public comments; and that there is danger of manipulation of comments.

- Yung-Yu Lin, Engineer, National Communications Commission, Chinese Taipei

Mr. Lin presented on consultations in Chinese Taipei. The Administrative Procedure Act (APA) was adopted in February 1999. The APA applies government-wide, and includes specific mention of hearing procedures. The APA is based on the principles of fairness, openness, transparency, and due process. Chinese Taipei gather comments by soliciting comments on Websites, surveys, public hearings, and one-on-one meetings. Mr. Lin presented a case study of the process of promulgating wireless broadband access services regulations. Chinese Taipei has learned that having a consultation process uses greater experience, creates synergy and trust between players, reduces opposition, greater stakeholder satisfaction, and creates feeling of commitment to a plan. Cons are that stakeholders can be passive, overly assertive stakeholders can create imbalance, administrative costs can be higher, and efficiency can be lower.

## 2) Educating Stakeholders and Resolving Complaints

- Rodrigo de la Parra, Director General, Prospective Regulation, Comisión Federal de Telecomunicaciones (COFETEL), Mexico

Mr. de la Parra said that independence – which is generally been thought to be an important characteristic for a regulator – must be accompanied by “accountability.” Accountability is not just informing stakeholders, but engaging them in the process. The process of engaging stakeholders should not be viewed as a means to comply with an obligation. Consultations help create solid decisions, as well as helping educate stakeholders. Mr. de la Parra offered Mexico’s number portability rulemaking as a case study. Mexico held public consultations, worked with a committee, had a collaborative drafting process, and established a call center to resolve the complaints of consumers.

### 3) Reviewing the Effectiveness of a Decision

- Carlos Valdez Velasquez-López, General Director for Concessions on Communications, Ministry of Transportation and Communications, Peru

Mr. Valdez presented on the evolution of the Peruvian marketplace, and importance of the consultation process in that growth. He spoke of the liberalization of the Peruvian market, the growth of fixed and mobile telephony, and the national goals of mobile telephony penetration and broadband penetration. Mr. Valdez also discussed the use of spectrum fee to promote mobile telephony expansion. For that decision, the government met with operators, published a draft for comments, and then approved a final system.

#### *Brainstorming Session*

At this point, the Workshop participants divided into 3 groups to sit at separate tables for a 20-minute Brainstorming session. Each table addressed one of the three topics of the day, with moderators facilitating the discussions. Following the Brainstorming, the moderators presented a summary of the discussions at their tables.

#### 1) Consultation During a Proceeding: Moderated and presented by Susan Johnston, Industry Canada

Ms. Johnston reported that her small group had an engaging discussion. Her group agreed that types of stakeholders include telecom industry players, end users, as well as other government bodies, as well as other sectors. They debated the merits and problems with restricting consultations to key stakeholders. If a consultation is limited to key stakeholders (usually companies), how are consumers engaged? This is important as regulators have an obligation to defend consumers. The type and level of consultation can vary depending on whether the issue is one of general policy and rule-making, an issue between two specific parties, and complaints from individuals. The group also considered the location/venue for consultations. Options include having consultations at headquarters, at regional centers, virtually (real-time), or online (not real time). There are positive and negative implications for both. Finally, the group agreed that it is useful to have established processes and administrative procedures for consultations.

#### 2) Educating Stakeholders and Resolving Complaints: Moderated and presented by Richard Brown, Department of Broadband, Communications and the Digital Economy, Australia

Mr. Brown said that his group said the ways of dealing with complaints vary. Timeliness is important when dealing with consumer complaints. The United States has formal (for companies) and informal (for consumer) complaint processes to make sure everyone's needs are met. Australia has an industry-funded telecom ombudsman to deal with complaints. The importance of consumer groups is variable; their efficacy depends on situation of economies. Education is also important – some complaints can be avoided if everyone knows what their responsibilities and rights are. Retailers have a role in educating consumers.

3) Reviewing the Effectiveness of a Decision: Moderated and presented by Lawrence Kwan, Chief Telecommunications Engineer, Office of the Telecommunications Authority, Hong Kong, China

Mr. Kwan said that his group agreed that when a decision was made by a regulator, there may be good chance or need for the regulator to make a review of the decision subsequent to its implementation and execution. The substance for the review may include the progress and achievement made so far on the decision and whether there are any desired or undesired implications or effects to the community (such as social obligations on emergency services, directory enquiries, USO etc.) and on the competitiveness of the market. With regard to when the consultations should be done, it all depends on the circumstances and the merit of individual cases. However, in general, the review could be conducted within 2 – 4 years time after the decision was taken in order that enough statistical data could be collected and some results of the implementation of the decision are known for such a review. The channels for the review may be through market survey on customers, posting of the consultation document at the website and/or by mail to stakeholders, setting up meetings with stakeholders and in order to promulgate the review, the regulator may have to conduct some publicity by means of media briefing/conference.

### *Speed Exchange*

After lunch, Workshop participants engaged in a Speed Exchange. There were 3 tables at the side of the meeting room. Each table had a flag or card on it that identified it as the discussion space for one of the topics of the day. There were three 20-minute rounds where people moved to a table to discuss a particular topic. At the end of a round, the Chair let everyone know that it was time to shift tables. Each table had a moderator, who stayed at his/her table through the three rounds of discussion. Following the Speed Exchange, the moderators presented a summary of the discussions at their tables.

1) Consultation During a Proceeding: Moderated and presented by Sebastian Bellagamba, Regional Bureau Manager for Latin America and the Caribbean, Internet Society

Mr. Bellagamba's group found that there tend to be two kinds of consultation processes – one kind target experts, while another is an all-open public process. Most comments come from private sector. Everything that effects public interest should go into open consultation. Where a consultation is held makes a difference in participation. Similarly, online consultations exclude people who do not have access. A consultation allows a decision to be improved and gives it more legitimacy, but does not mean that you will not be sued. Despite workload and costs, the

open consultation is worth it. Concepts that are important in a consultation are 1) openness; 2) transparency; 3) multi-stakeholder.

2) Educating Stakeholders and Resolving Complaints: Moderated and presented by Ernie Newman, Chief Executive, Telecommunications Users Association of New Zealand

Mr. Newman's group determined that it is necessary to have a complaint mechanism specific to telecommunications because of the pace of change; complexity of services; that livelihoods and sometimes lives depend on this utility; that there is a (perceived) imbalance of power with large service providers and tiny customers; and it is a politically sensitivity service. The group found that there are two ways of handling consumer complaints. It is more common for the regulator to handle the complaints. Many regulators have a "consumer office," sometimes in multiple cities. All of them can mediate. Some can arbitrate, with legal enforcement backing, but it is a slow and complex process. Less common is the industry body to handle consumer complaints. Some are government-funded but the trend is industry-funded. Some are legislated (e.g. Australia's Telecommunications Industry Ombudsman) but most are voluntary (Canada, New Zealand). Consensus is these are effective and economical. The group found that there was a great deal of variation in response times to consumer complaints, and that the times were often too long. A useful by-product of dealing with consumer complaints is collection of statistics on what customers complain about. Useful data about patterns emerges, and the industry can learn from this. Billing is by far the biggest cause of complaints, followed by quality of service.

3) Reviewing the Effectiveness of a Decision: Moderated and presented by Susan Johnston, Senior Policy Advisor, Telecommunications Policy Branch, Industry Canada

Ms. Johnston's group determined that it was important to take stakeholder perspective into account when evaluating the effectiveness of a decision. Reviews are important in light of convergence. The review can relate to broad or narrow issues. Sometimes regulators conduct direct reviews, and sometimes they work with advisory councils. Reviews can be triggered when the regulator believes the market demands it, or there can be review timelines integrated into the decision.

During the discussion of these presentations, Mr. Thornberry asked Mr. Newman to explain the consumer complaint system in New Zealand. Mr. Newman said that the government was about to create a complaint board when industry said that it could do it and better on voluntary basis. Consumers can go to this independent body to make complaints. Most of industry has signed on to this system. Consumers can be awarded up to US\$4000; the decision is binding on industry, but not on the consumer. This system is about a year old, and appears to be working well.

To end the day, Mr. Thornberry said that a great deal of information came out in the day's discussions. When reviewing the effectiveness of a decision, it is important to establish indicators, and take input, all in a systematic way. In educating stakeholders and resolving complaints, information is very important because it reduces dissatisfaction. When consulting stakeholders during a proceeding, how open should consultations be?

In closing, Mr. Thornberry thanked Anita Dey of the United States along with the other workshop organizers, speakers, and the moderators. He said that this workshop will leave the group with a “reloaded agenda” for the following months. He also said this was useful for OSIPTEL, and he thanked APEC TEL for the invitation to participate.

## ANNEX A

### Agenda: Engaging Stakeholders Workshop

APEC TEL 38 - Lima, Peru  
Tuesday, October 14, 2008  
9 a.m. to 5 p.m.

*Oversight Committee: U.S., Singapore, Canada, Australia, INTUG*

#### **Introduction**

The goal of this workshop is to examine and facilitate the interaction between regulators, policymakers, end users, consumers, and industry. The genesis of this workshop was a discussion at the Liberalization Steering Group (LSG) where participants wished to examine the linkages between the LSG's policy/regulatory frameworks, consumer issues, next generation networks, and universal service work.

#### **Agenda**

9-9:15 a.m.

#### **Opening Remarks**

Chair: Guillermo Thornberry Villarán, Chairman of the Board, Organismo Supervisor de Inversión Privada en Telecomunicaciones (OSIPTTEL), Peru

9:15-10:30 a.m.

#### **Presentations on Themes**

*Presenters from government, industry, and user organizations will present case studies or specific examples to facilitate the discussion of the themes that throughout the day. Speakers will give 10 minute presentations, followed by a 15-minute discussion.*

#### 1) Consulting Stakeholders During a Proceeding

- Ivana Kriznic, Head of Regulatory and Government Affairs, Latin America and the Caribbean, British Telecom
- Masayasu Nakano, Director, Multilateral Economic Cooperation Office, Ministry of Internal Affairs and Communication, Japan
- Yung-Yu Lin, Engineer, National Communications Commission, Chinese Taipei

#### 2) Educating Stakeholders and Resolving Complaints

- Rodrigo de la Parra, Director General, Prospective Regulation, Comisión Federal de Telecomunicaciones (COFETEL), Mexico

3) Reviewing the Effectiveness of a Decision

- Carlos Valdez Velasquez-López, General Director for Concessions on Communications, Ministry of Transportation and Communications, Peru

Discussion

10:30-11 a.m.

**Brainstorming**

*Participants will be able to pick the topic that they wish to discuss for the entire 30-minute session. (There a “speed exchange” in the afternoon.) Annex A of this document has a worksheet intended to facilitate discussion.*

1) Consultation During a Proceeding - moderated by Susan Johnston, Industry Canada

2) Educating Stakeholders and Resolving Complaints - moderated by Richard Brown, Department of Broadband, Communications and the Digital Economy, Australia

3) Reviewing the Effectiveness of a Decision - moderated by Lawrence Kwan, Chief Telecommunications Engineer, Office of the Telecommunications Authority, Hong Kong, China

11:15-11:30 a.m.

Tea/Coffee Break

11:30-12 p.m.

**Presentations from Brainstorming Moderators**

*Moderators will summarize their groups’ discussions in 5 minute presentations, followed by a 15-minute discussion.*

1) Consultation During a Proceeding: Susan Johnston, Industry Canada

2) Educating Stakeholders and Resolving Complaints: Richard Brown, Department of Broadband, Communications and the Digital Economy, Australia

3) Reviewing the Effectiveness of a Decision: Lawrence Kwan, Chief Telecommunications Engineer, Office of the Telecommunications Authority, Hong Kong, China

Discussion

12-2 p.m. Lunch

2-3:30 p.m. **Speed Exchange**

*The Speed Exchange is a technique that worked effectively at past ITU Global Regulators' Symposia and at the last Regulators Roundtable. There will be 3 tables at the side of the meeting room. Each table will have a flag or card on it that identifies it as the discussion space for one of the topics early on the agenda. There will be three 25-minute rounds where people can move to a table to discuss a particular topic. At the end of a round, the Chair will let everyone know that it is time to shift tables. Each table will have a moderator, who will stay at that table through the three rounds of discussion*

1) Consultation During a Proceeding - moderated by Sebastian Bellagamba, Regional Bureau Manager for Latin America and the Caribbean, Internet Society

2) Educating Stakeholders and Resolving Complaints - moderated by Ernie Newman, Chief Executive, Telecommunications Users Association of New Zealand

3) Reviewing the Effectiveness of a Decision - moderated by Susan Johnston, Senior Policy Advisor, Telecommunications Policy Branch, Industry Canada

3:30-4 p.m. Tea Break

4-4:30 p.m. **Presentations from Speed Exchange Moderators**

*Moderators will summarize their groups' discussions in 5 minute presentations, followed by a 15-minute discussion.*

1) Consultation During a Proceeding: Sebastian Bellagamba, Regional Bureau Manager for Latin America and the Caribbean, Internet Society

2) Educating Stakeholders and Resolving Complaints: Ernie Newman, Chief Executive, Telecommunications Users Association of New Zealand

3) Reviewing the Effectiveness of a Decision: Susan Johnston, Senior Policy Advisor, Telecommunications Policy Branch, Industry Canada

Discussion

4:30-5 p.m. **Closing Thoughts**

Chair: Guillermo Thornberry Villarán, Chairman of the Board, Organismo Supervisor de Inversión Privada en Telecomunicaciones (OSIPTEL), Peru

## ANNEX B

### Worksheets for Brainstorming and Speed Exchange Sessions

#### *Worksheet - Consultation During a Proceeding*

Who are the stakeholders economies have heard from in consultations?	
What gets a consultation process? Is there anything that doesn't?	
When (Timelines)?	
Where are consultations done? At headquarters or off-site?	
Why should there be consultations?	
How do you do a consultation?	

*Worksheet – Educating Stakeholders and Resolving Complaints*

Who are the stakeholders?	
What?	
When should consultations be done? Timelines?	
Where – domestic, international?	
Why should we go through the trouble?	
How do you do it?	

*Worksheet - Reviewing the Effectiveness of a Decision*

Who are the stakeholders?	
What?	
When should consultations be done? Timelines?	
Where – domestic, international?	
Why should we go through the trouble?	
How do you do it?	

## ANNEX C

### Suggestion for Future Work

Given the robust discussion at the workshop, a logical next step in list line of work may be to write a paper – “Best Practices in Decision-Making.” This would allow the LSG to capture all of the issues raised in the workshop, and to document them for future use.

#### Possible Structure

Chapter 1: Introduction

Chapter 2: Consulting Stakeholders

- a. Consultation procedures
- b. Outreach and educating
- c. Open consultation vs. limited consultation
- d. Timelines

Chapter 4: Resolving Complaints

- a. Regulator-led complaint resolution
- b. Industry-led complaint resolution
- c. The importance of timeliness

Chapter 5: Reviewing Decisions

- a. Re-evaluating decisions due to market change
- b. Using a “sunset” clause

Chapter 6: Conclusions

#### Sources

1. Economy presentations
2. Outcomes from Engaging Stakeholders Workshop
3. APEC TEL Enforcement Paper

#### Suggested Timeline

TEL 38 – Determine drafting committee

Inter-sessionally – Finalize paper structure; make drafting assignments; begin drafting

TEL 39 - Present a draft for comment

Inter-sessionally – Integrate comments and edit paper

TEL 40 – Present paper for adoption

#### Drafting Committee

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