

Cite as: 8 NCTU L. REV., March 2021, at 129.

Competition Law Issues on Infrastructure and Spectrum Sharing of Mobile Telecommunications Operators

Chang-Chiang Hsieh *

Abstract

This contribution explores the properties under competition law and related analytical factors of spectrum sharing, which is allowed under Telecommunications Management Act among 5G mobile telecommunications operators. Based on preliminary remarks and analysis of infrastructure sharing of mobile telecommunications, including its technical, regulatory, and competitive aspects, comparative legal studies focusing on whether and how Article 14 of the FTC Act, which pertains to concerted actions, applies to the cooperative behaviors concerning spectrum sharing are conducted. The said behaviors are categorized into two types, “entry enhancing” and “network developing,” according to the spectrums licensed to and shared by the operators, where only the latter type has the potential to be deemed as a concerted action. An analysis on the review concerning the approval of the latter type of cooperation under Article 15 of the Act is then provided.

* Ph.D. Student, College of Law, National Taiwan University; M.A. in Economics, National Taiwan University; L.L.M., National Cheng-Chi University; L.L.M., Tilburg Law School.

Keywords: The Fifth-Generation Cellular Network Technology, 5G, Spectrum Sharing, Infrastructure Sharing, Concerted Action, Telecommunications Management Act