



FSMT Cable Corporation
P.O. Box 2202,
Kolonia, Pohnpei, FM, 96941
Phone: (691) 320-2602

February 04, 2022

Mr. Takuro Akinaga
Chief Executive
Telecommunication Regulation Authority
P.O. Box 1919, Pohnpei, FM 96941

RE: Draft determination Bottleneck facilities

Dear Mr. Akinaga,

It pleases me to inform you that FSMT Cable Corporations fully supports TRA's draft decision and determination of Bottleneck Facilities.

While the comments below do not affect the draft determination, they do identify a couple of small points for discussion in the draft decision:

- Decision ¶¶ 19-23. It is true that because the definition of "access" in the Act applies to bottleneck facilities, the TRA can only compel "access" to non-bottleneck facilities. However, the TRA has other powers that enable it to regulate physical infrastructure that would function in a similar manner (see discussion below). Taken out of context, these statements might lead some stakeholders to believe that the TRA has no power to regulate physical infrastructure unless it is deemed a bottleneck facility.
- ¶ 22. While it is true that TRA's power to compel "access" and to decide "access" disputes under Section 340 of the Act is limited to bottleneck facilities, the definition of "interconnection" under section 302(v) of the Act is not limited to bottleneck facilities and extends to the "*physical* and logical linking of communications networks of different licensees." (emphasis added). The Act also provides the TRA with other powers under the Act, including those related to competition, that would provide the TRA with authority to issue orders or make regulatory determinations with respect to facilities that are not bottleneck facilities.
- ¶¶ 59-61. While FSMTCC agrees that each state is a separate geographic market, it may be that some states (such as Chuuk) consist of more than one geographic market, at least for submarine cables. Imagine a separate cable connected to the Mortlock Islands, or to the northern or western outer islands of Chuuk. It is not clear that these cables would be serving the same market as the Chuuk lagoon cable that lands in Weno. Similarly,

Suite 15, Oceanview Plaza (East Wing)
P.O. Box 2202, Kolonia, Pohnpei, FM 96941



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although the markets are too small to support a cable, the outer islands of Pohnpei and some of the outer islands of Yap may not be in the same geographic market as the cables that service the main island in those states.

- ¶ 61 The statement in the draft decision that “Two cables connecting to one State, and providing connectivity for that State, do not create two markets, but rather two facilities that serve the same market” might not be correct. This may or may not be true depending on where in the states the cables land. Also, if there was a domestic submarine cable (for example within the Chuuk lagoon) that would seem to come within the definition of “submarine cable” set out by TRA in ¶ 55 of the decision, but such a cable would not be serving the same market as the CP cable, it would be acting as an extension of the CP cable.

FSMTCC would be happy to further discuss the above if needed.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Pieter Bakker", written in a cursive style.

Pieter Bakker

Chief Executive Officer

FSMT Cable Corporation.