

EU – JAPAN EPA

The Telecommunications Industry

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This presentation has been prepared with the sole purpose of simplifying the understanding of some parts of the EU-Japan EPA and bears no legal standing.

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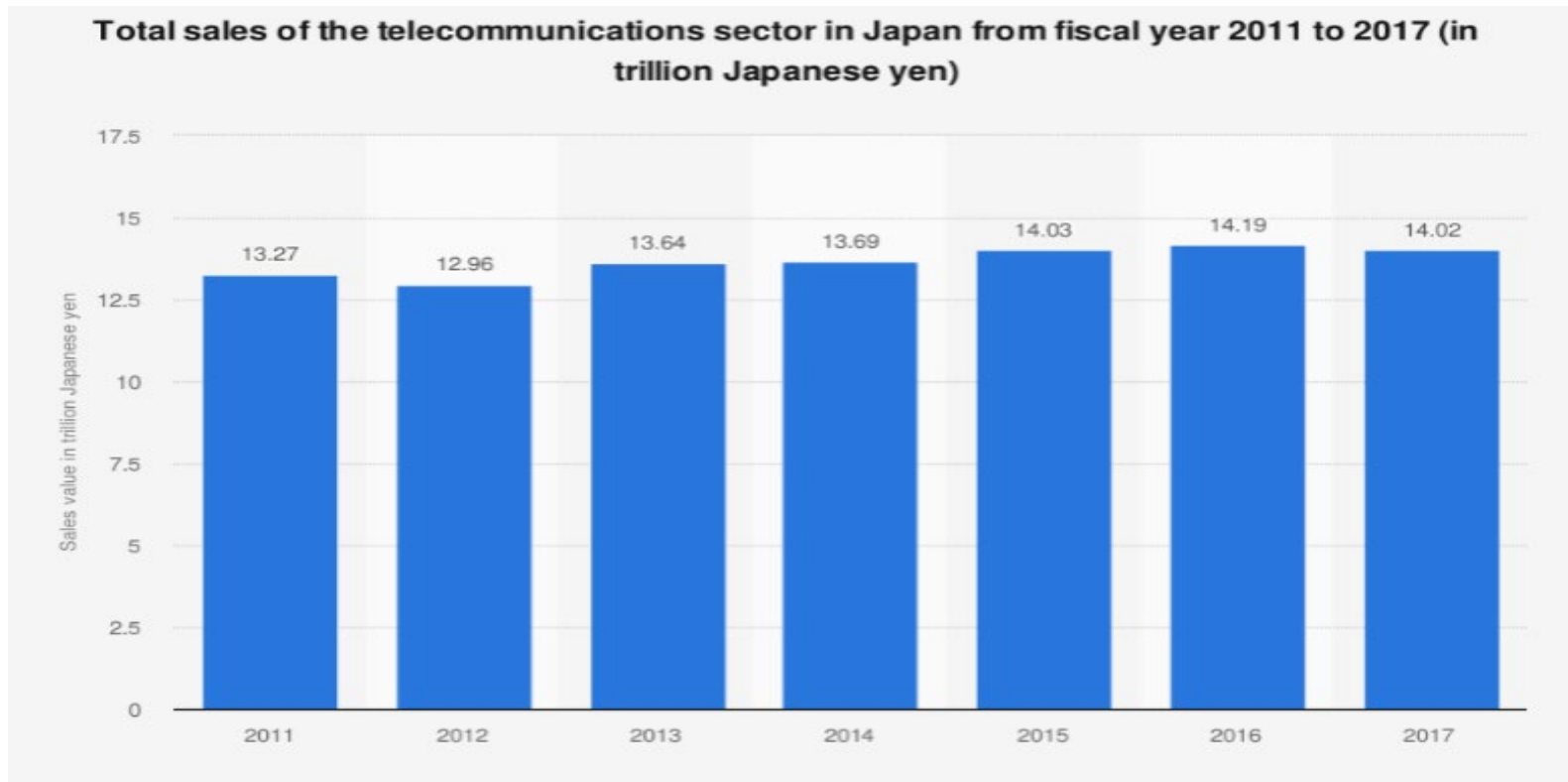
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Japan's Market Landscape

Since 2013, Japan's telecom market size has remained stable in JPY terms

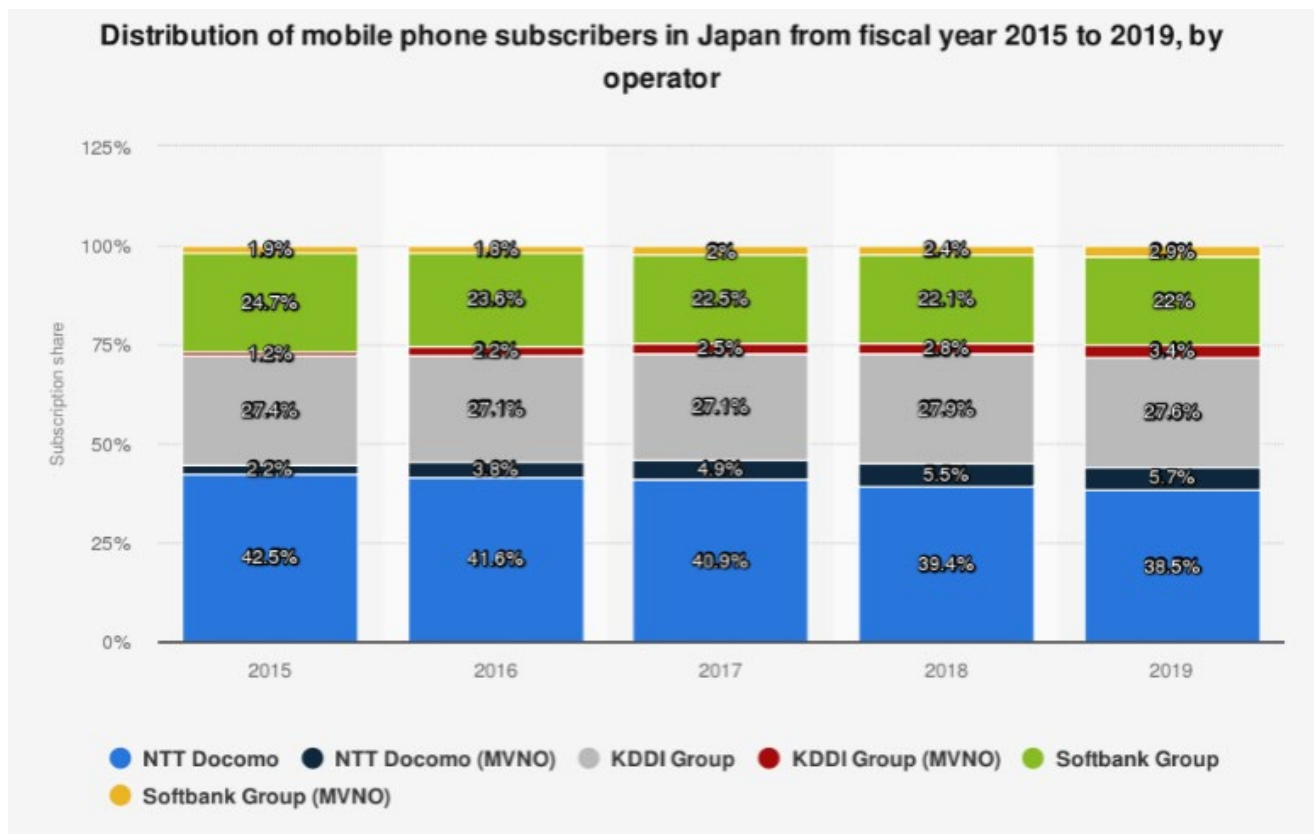
- Revenues stable between ¥ 13.5tn and ¥14.5tn
- 2012 saw total industry revenues fall below ¥13t



Japan's Market Landscape

Mobile phone market dominated by three mobile network operators (MNOs). NTT, Softbank, and KDDI

- Each also has a growing virtual mobile network operator (VMNO)



Japan's Telecom Regulation

Key Telecoms Legislation:

- 1984 Telecommunications Business Act: Primary legislation governing telecoms in Japan.

Regulatory Guidelines

- Cabinet Order for Enforcement of the Telecommunications Business Act
- Regulations for Enforcement of the Telecommunications Business Act
- Rules for Telecommunications Business Accounting: Telecoms industry accounting standards

International Standards

- Technical barriers to trade standards issued by the International Telecommunication Union (ITU), generally followed, except when would be ineffective or inappropriate for the fulfilment of legitimate objectives.

EU-Japan EPA Treaty Coverage

Chapter 8 – Sub-Section 4

EPA Chapter 8 covers trade in services, investment and e-commerce

Treaty language on the telecommunications industry is the content of Sub-Section 4. This includes:

- Public Telecommunications Services
- Public Telecommunications Transport Networks
- Essential Facilities
- End-Users

8.41: Telecoms Market Coverage

EPA 8.41 outlines the regulatory framework for telecommunications services affecting trade in telecommunications services

Except:

- Broadcasting services
- Editorial Content Services

8.42: Telecoms Market Coverage

EPA 8.42 establishes coverage for a range of telecommunications services and parties to services. This includes:

Facilities

- Essential Facilities
- Associated Facilities

Parties

- End-Users
- Major Suppliers

Networks

- Leased Circuits
- Public Telecommunications Services
- Public Telecommunications Transport Networks

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Treaty language in Sub-Section 4 includes a number of protections that apply to the telecoms industry:

Number Portability

- EPA 8.45: Establishes provision of number portability for mobile services offered by that suppliers of public telecommunications transport services.

Use of Network Facilities and Interconnection

- EPA 8.47(1): Use of network facilities and interconnection to be agreed on basis of commercial negotiation between suppliers.
- EPA 8.47(2): Regulatory authorities have power to require a supplier of public telecom transport networks or services to provide interconnection.

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Anti-Competitive Practices 1

EPA 8.48(1): Protection from bundling & refusal to supply. Major suppliers prevented anti-competitive practices, whether alone or in-group. Specifically, this includes:

- Anti-competitive cross-subsidisation
- Use of information obtained from competitors with anti-competitive results
- Not making available technical information about essential facilities and commercially relevant information necessary to provide services.

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Anti-Competitive Practices 2

EPA 8.48(2): Protection from refusal to supply: Regulatory authorities empowered to require major suppliers to accord to suppliers of public telecoms transport networks or services treatment no less favourable than affiliates or subsidiaries when it comes to:

- Availability of like ad rates for telecommunications services
- Availability of technical interfaces

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Telecommunications Networks and Services Licencing

- EPA 8.51 (1): Simple registration (or notification). Prior explicit decision by regulatory authorities not required.
- EPA 8.51 (2 to 4) Licences for frequencies may be required. Terms, conditions, and licencing to be made public. Decisions to be made in a reasonable period of time and explained in writing.

Transparency

- EPA 8.53: Measures relating to access and use of public telecoms transport networks and services made publicly available. Includes:
 - Tariffs and other terms and conditions of service.
 - Specifications of technical interfaces
 - Conditions for attachment of equipment to networks.
 - Permits, registrations or licensing requirements.

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Dispute Resolution 1

- EPA 8.54 (1 and 2): Suppliers of public telecoms transport networks or services shall have timely recourse to regulatory authorities to resolve disputes.
 - Or written explanation should authorities decline to act.
- EPA 8.54(3): Dispute resolution decisions made publicly available to the public, respecting business confidentiality.
- EPA 8.54(4): Public telecommunications transport networks or services suppliers aggrieved by regulatory decision may obtain review of decision by either
 - Regulatory authority or ...
 - An independent appeal body (which may or may not be a judicial authority).

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Dispute Resolution 2

- EPA 8.54(5): Further review of all decisions by an independent judicial authority,
 - Except if the supplier has accepted a procedure where the regulatory authority or independent appeal body issues a final decision.
- EPA 8.54(6): An application for review by an appeal body or a judicial authority does not constitute grounds for non-compliance with the determination or decision of the regulatory authority.

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

International Mobile Roaming

EPA 8.57: Establishes framework for international mobile roaming between Japan and the EU. This includes:

- Encouraging enhancement of transparency and competition on international mobile roaming rates and technological alternatives to roaming services.
- Encouraging suppliers to make information on retail rates for international mobile roaming services for voice, data and text messages publicly-available.

However, the EU-Japan EPA does not:

- Regulate rates or conditions for mobile roaming services.
- Apply to intra-European Union roaming services

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Non-Discrimination 1

- EPA 8.44(1): Provides for service-supplier non-discrimination in terms of access to and use of public telecommunications transport networks and services.
- EPA 8.44(2): Service-supplier non-discrimination includes private leased circuits, terminal and network-interface equipment, necessary to supply services, and use of necessary operating protocols.
- EPA 8.44(3): Service-supplier non-discrimination includes intra-corporate communications of service suppliers, as well as access to information contained in databases in machine-readable form.

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Non-Discrimination 2

EPA 8.44(5): No condition imposed on access other than necessary to:

- Safeguard public service responsibilities of public suppliers, transport networks and services, in particular their ability to make their networks or services available to the general public.
- Protect the technical integrity of public telecoms transport networks or services.

EPA 8.44(6): Conditions can include:

- Restrictions on resale or shared use of services.
- Requirement to use specified technical interfaces.
- Inter-operability requirements for public telecoms transport services
- Restrictions on inter-connection of private leased or owned circuits with public telecoms transport networks or services.
- Notification, permit, registration and licensing.

EU-Japan EPA Treaty Obligations

Sub-Section 4 Protections

Non-Discrimination 3

EPA 8.46: Establishes non-discrimination if and when a supplier of public telecommunications transport services is required to offer its public telecommunications transport services for resale.

Summary

In Conclusion....

- Japan's telecommunications market is generally stable. Dominated by three major MNOs, each with an associated VMNOs.
- Japan's telecoms market is regulated by the **Telecommunications Business Act**, as well as the associated regulatory guidelines and accounting standards.
- The EU-Japan EPA grants coverage to facilities, parties and networks.
- The EPA guarantees access, number-portability, transparency and non-discrimination.
- The EPA also provides a framework for dispute resolution.

Thank you for your attention



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QUESTIONS ?

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