


## Welcome

This is the latest edition of “Hot Issues” from Burson-Marsteller’s Global Public Affairs Practice. Every month, “Hot Issues” focuses on 10 new forthcoming legislative or policy issues that will impact business from around our global network of 130+ offices in Latin America, Asia-Pacific, Europe, Middle East, Africa and North America.

The public policy dynamics in each country, let alone a particular region can be very different, demonstrated by the different experts we utilize in the countries where we operate. Conversely, there are similarities and you can see this in some of the issues we have picked out.

Hot Issues are designed to give you a flavor of our global perspective and should any of the items raise particular interest with you please contact the designated person listed with that issue.



## Japan: New legislation to open opportunities for renewable energy companies

In August, Japan’s parliament, the Diet, passed a new law to implement a groundbreaking feed-in tariff (FIT) policy for renewable energy that will require the country’s 10 regional power utilities to sign on to long-term contracts obligating them to buy electricity from wind, solar, biomass, and other renewable energy providers at above-market rates, as well as set national targets to increase renewable energy output over the next decade. However, key policy details for the law, which will take effect in July 2012, remain to be determined under Japan’s new government that could significantly affect the scope and impact of the FIT legislation.

Analysts say the legislation could provide a significant boost to Japan’s renewable energy sectors – including the solar, wind, biomass, and geothermal industries – if debates over final policy details are resolved in favor of renewable energy advocates. Japanese solar cell manufacturers like Sharp and Kyocera are expected to be the biggest near-term beneficiaries of the final FIT policy, and Chinese and other Asian solar cell producers, geothermal technology companies, and foreign wind turbine manufacturers like Vestas, GE, and Enercon that dominate the local wind energy market in Japan are also expected to see significant benefits.

As drafted, the FIT policy will allow the Japanese Minister of Trade and Industry to set long-term contracts requiring Japan’s regional power utilities to purchase electricity from renewable energy producers at above-market prices. The current bill does not specify any details concerning the pricing

structures that will be put in place under those contracts, and industry observers expect this to be a key area of contention for stakeholders across Japan’s energy sector, including both renewable energy advocates as well as representatives of Japan’s nuclear and fossil fuel industries and electric utilities. Contract durations, environmental restrictions which could limit Japan’s ability to tap geothermal energy resources, and a vague exemption clause that critics argue allows electric utilities to opt out from buying renewable energy too easily are also expected to be key areas of debate.

The resignation of Prime Minister Naoto Kan and the recent ascension of Prime Minister Yoshihiko Noda’s new government have cast additional uncertainty on both the FIT legislation and the direction Japan will adopt for its broader energy policy. Prime Minister Noda’s government has communicated a more favorable stance towards nuclear energy than its predecessor, leading some to expect less significant moves away from nuclear power in favor of renewable energy sources. Debates on Japan’s overall energy policy were scheduled to begin in October, and policy discussions to finalize the details of the feed-in tariff legislation are expected to begin at the end of 2011.

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## Singapore: Government seeks feedback on comprehensive data protection policy

The Singapore Ministry of Information, Communications and the Arts (MICA) has published a preliminary framework of regulatory proposals to develop a comprehensive consumer data protection policy for Singapore. The preliminary framework outlines a range of proposals for public review and commentary, including proposals for universal minimum data protection standards, more stringent data protection regulations for certain industries, differentiated rules for public and private sector organizations, and hefty financial and other penalties for code violations.

Singapore does not currently have any binding comprehensive data protection regulation. Some businesses adhere to a voluntary data protection code based on OECD guidelines, and others – like banks, statistics vendors, online retailers, and government organizations – are regulated under industry-specific data protection laws. A comprehensive and binding data protection policy is expected to force a broad cross-section of industries and companies that compile customer data to revise their data collection, use, and disclosure practices. Government representatives say the new data protection law will curb excessive collection of consumers' personal data by businesses and attract increased investment in Singapore's data management and processing service sectors. Industry observers say it may also increase costs and compliance demands for affected companies.

The current proposals published by the government would require companies to give advance warning to consumers (including what data will be disclosed, to whom, and for what purpose) and gain their consent before collecting or disclosing protected data. The current draft policy framework would also establish a data protection council to oversee the implementation and enforcement of the legislation. Details clarifying who would sit on the council, the full range of enforcement powers they would hold, and the definitions for different categories of protected data are still being debated.

Consultations are already underway to gain public feedback on the scope of the law's coverage as well as proposed data management rules, enforcement measures, and the transitional arrangements for affected organizations. The Infocomm Development Authority of Singapore (IDA) has also promised consultations with business stakeholders to address concerns from the private sector. The government has not yet proposed a definitive timetable to move the legislation forward, but MICA has announced that it hopes to submit a draft law for parliament to consider in early 2012.

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## India: Government unveils draft National Telecommunications Policy

On October 10, Telecommunications Minister Kapil Sibal unveiled a draft 2011 National Telecommunications Policy (NTP) intended to streamline regulations and boost growth in India's telecommunications sector. The draft policy includes wide-ranging measures that could significantly alter the operating environment for both foreign and domestic telecommunications companies in India. Proposals include revising national telecom licensing practices, liberalizing M&A regulations and encouraging market consolidation, opening up spectrum allocation and trading practices, and

offering Indian-owned firms preferential market access vis-a-vis their foreign-owned competitors.

Analysts characterize the draft NTP as a double-edged sword for telecommunications companies in India. Proposals to allow spectrum trading between mobile operators and to liberalize India's M&A regulations - which some characterize as prohibitive - have been welcomed by the industry as productive measures to help consolidate India's crowded mobile market, increase profit margins, and open new business opportunities for both foreign and Indian-

owned companies. In contrast, the NTP's "one nation, one license" rule, which would require operators to give up roaming charges that currently account for almost 10% of their total revenue, has been less well received. Proposals to provide Indian-owned telecom equipment manufacturers with preferential licensing rights and government subsidies to increase their market share at the expense of foreign manufacturers like Ericsson, Nokia Siemens, Alcatel-Lucent, and Huawei, who currently dominate the telecom hardware market, have attracted particular controversy and opposition from both foreign equipment manufacturers and some Indian operators who purchase their products.

Analysts have criticized the draft NTP for failing to lay out crucial policy details on key issues like spectrum pricing structures, broadband spectrum allocation and trading between operators, and proposals to significantly revise industry M&A regulations. Industry representatives have called for the government to clarify these issues before the

policy is implemented, arguing that the omissions provide too much discretion for regulators to make ad-hoc judgments and create harmful uncertainty for companies and other stakeholders in the telecommunications sector.

Several stages of consultation and approval remain to be met before the policy can be enacted. The draft NTP is currently posted for public feedback on the website of the Department of Telecommunications, and the Telecom Regulatory Authority of India (TRAI) has also promised consultations with telecommunications companies and other private sector stakeholders before a revised NTP draft is submitted to the Cabinet Committee on Economic Affairs for final clearance. The Department of Telecommunications is targeting a finalized policy by the end of 2011.

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## Denmark: New centre-left government to change focus

The newly appointed Danish centre-left government, led by the social democrat Prime Minister Mrs. Helle Thorning-Schmidt, will try to set a new direction for Danish politics including for Denmark's involvement in the EU and across trade relations. The Government has taken the step of appointing both a Minister for European Affairs and a Minister for Trade and Investment to support the Minister of Foreign Affairs. Domestically, the greatest challenge will be to initiate growth and create jobs, and it will be on this that the success of the new government will be measured. But aspirations are high on other issues as well, especially climate and energy.

When it comes to foreign policy, two of the new government's policies call for particular attention:

- The new government has made it clear that it wants Denmark to be a pioneering country within the EU on issues such as consumer protection and food safety. In particular, it is expected that the government will focus on using the REACH program to tighten European laws on chemicals. This will put emphasis on a stricter interpretation of the precautionary principle alongside focus on the so-called cocktail-effect that takes the cumulative effects of chemicals into account when applying

the precautionary principle. Furthermore, the government has promised a referendum to end two of Denmark's European opt-outs, namely those on defence policy and justice and home affairs, thereby still leaving Denmark outside the Euro.

- Job creation and growth will be the government's two main aspirations, and in line with that the coalition has promised renewed focus on exports and foreign investments. Most attention will be on the BRIC countries, where the government will establish concrete strategies for each country, and initiate a more coordinated effort in these as well as other emerging markets.

Domestically the government wants to stimulate growth by investing more in the renovation of infrastructure and by improving the business environment through greater competitiveness of Danish businesses and attracting foreign companies. A specific objective will be job creation within green technology, which goes hand-in-hand with the high aspirations of the government when it comes to climate change and energy policy. By 2020 the government wants 50% of Danish energy to derive from wind power and to reduce CO<sub>2</sub> by 40%. By 2030 coal will no longer be used and by 2050 the entire

Danish energy supply will derive from renewable energy sources. Somewhat surprisingly, the new centre-left government has promised to lower Danish income taxes, currently the world's highest, to stimulate growth and job creation in the country. This will most likely be financed by higher green taxes and taxes on unhealthy food.

The government took office on October 3rd and will have a busy time over the coming months. Apart from formulating a new budget for 2012, the government has to prepare for the EU presidency and decide on issues to bring forward when it takes this over on January 1st. The strategic approach

towards BRIC and emerging markets was already initiated by the former government, so implementation of this will also take form over the coming months. On the energy agenda, the government has promised immediate action and will put forward a comprehensive plan of action on climate change by 2012, including specific goals for reduction of CO<sub>2</sub> in those sectors not covered by the EU Trading System (ETS).

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## Hungary: National Protection Plan

Hungarian Prime Minister Viktor Orbán is moving ahead with his "National Protection Plan". Shocking the international banking industry with his plan to allow foreign mortgage payers to clear their outstanding forex debts at a discount rate of exchange, Orbán said the new proposal would be a further step towards mitigating the Swiss franc mortgage problem. Further proposals include limiting the charges which banks can pass on to clients, and the fixing of a transparent level of mortgage interest linked to a benchmark rate.

### Financial Protection Plan

The "battle" against Hungary's sovereign debt has become a mantra for Orbán's government over recent months. While not necessarily approving of its methods, the cabinet's strategy that the budget deficit has to be reduced to below 3 per cent has met with general market approval. Rescue loans from the IMF and the EU will be paid back this autumn to the tune of EUR 3 billion. The prime minister added that Hungary is seeking EU approval for a change in VAT on agricultural products. Only affecting firms, not private individuals, the buyer would be responsible for passing on the VAT to the taxman. The government also wants Brussels to agree to a 35 per cent VAT band for luxury items (the current EU maximum is 25 per cent, the current rate of sales tax in Hungary).

### Usury

The first part of the plan involves a crackdown on loan sharks, known to be a serious problem

particularly amongst poor, often Roma, communities in provincial Hungary. Orbán said the Criminal Code will be amended to allow for the more efficient prosecution of loan sharks. Furthermore, the total annual cost including interest and service charges of any personal loan will be capped at 30 per cent.

### Cheaper utilities

The government plans to introduce a system of central control that strictly limits the prices, utility companies (water, sewerage, refuse collection) charge to consumers. Electricity and gas are already regulated.

### Work programme for the unemployed

Orbán said that public works schemes for the long-term unemployed will be stepped up next year if current trial runs prove successful. Farming, energy and large-scale national investment projects will be able to draw upon those who stand to lose welfare benefits - up to 300,000 could join the scheme next year. The prime minister also suggested that in-kind payments may be phased in to replace current cash support for those living on state support.

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## South Africa: Information Bill threatens freedom of expression and transparency

The Protection of Information Bill is designed to protect certain information from destruction, loss or unlawful disclosure; to regulate the manner in which information may be protected; to repeal the Protection of Information Act, 1982 (enacted during the apartheid era); and to provide for matters connected therewith.

However, the Bill in its current form contains a number of problematic provisions that establish serious hurdles for media, civil society and business in terms of obtaining information on government tenders, official corruption, mismanagement and government service delivery issues. The Bill

effectively gives government officials wide powers to prevent disclosure in the interest of 'national security'. Dubbed the 'Secrecy Bill', these 'secrets' need to be better defined to prevent abuse of power.

The Bill has been postponed for further consultation after intense public scrutiny and vocal opposition.

The legislation is expected to be concluded at the end of 2011.

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## Colombia: New consumer statute

Colombia's Congress recently passed the new consumer statute, which attempts to update the rules that regulate consumer-producer relations with the aim of guaranteeing that the rights of citizens come before the interest of manufacturers and sellers. This law combines the growing trend of protecting consumers' rights globally and adapts them to the economic and social reality of Colombia.

The body of the statute introduces several new features to protect the consumer. It states that the producer be held responsible for damage or a product defect. It obliges retailers to offer a guarantee on all goods and services sold in the country, and creates a mechanism which easily enables consumers to address protection issues. It also establishes that those advertising products have specific obligations to the consumer and introduces the right of first refusal for all purchases made at a distance, whether by internet or telesales, whereby the consumer does not have direct contact with the product. In these cases, the buyer may return the product if it is defective or does not correspond with the offer. The law also establishes that a minor is only able to purchase online with permission of his or her parents.

According to the Superintendent of Industry and Trade, Miguel de la Calle, the new consumer statute should help to change the Colombian buyers' mentality, creating a new culture of complaint that does not currently exist. For instance, in Panama there are 100 claims every 100,000 inhabitants. In Mexico there are 124 claims every 100,000 inhabitants. But, in Colombia only 24 claims every 100,000 buyers were registered. The Government's aim is to move from 25,000 to 40,000 claims a year.

This new law represents an opportunity for all companies that are looking for or are planning to launch a new program to enhance the relationship with their customers. It is also critical to consider the new regulation when preparing and planning advertising and general communications regarding products.

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## Argentina: Advances on e-waste regulation

E-waste regulation is steadily advancing in different jurisdictions in Argentina. Earlier this year, the National Senate approved and passed to the Chamber of Deputies for review the first national initiative to regulate a manufacturer's responsibility for waste produced from their electrical and electronic devices. The initiative will be debated in the Chamber of Deputies, with the Natural Resources Committee expected to begin its analysis in November, after the recent national elections.

The project creates a new government body, funded by mandatory contributions from manufacturers of devices that generate e-waste. This body will define the specific costs associated to each kind of e-waste. Each company will be allowed to submit its own e-waste self-management program, which will be evaluated with the potential to lower payments to the new government body. It will be headed by a representative of the National Secretary of Environment and will include five representatives of the manufacturers, two representatives of the Federal Environment Council (by appointment of the local ministers of Environment from each province), a representative of the National Institute of Industrial Technology (INTI) and a representative of the most relevant association of industry and commerce. The regulation also bans the sale of products containing lead, mercury, cadmium and chromium among other substances.

Furthermore, the Legislature of the province of Buenos Aires recently approved its own regulation on e-waste management. It is focused on reuse of the wastes and creates different provincial registries for manufacturing companies and e-waste managers. It also states that consumers who buy new electronic devices or home appliances may take their old ones to the same shop to be delivered to e-waste managers and introduces the concept of waste classification as it bans individual consumers and companies to give e-waste the same treatment as general solid wastes.

In Santa Fe, the provincial government established its own e-waste recycling program through an NGO which works with unemployed young people. The city of Buenos Aires also recently launched a program to recycle computers to be donated to public schools aided by the voluntary participation of the private sector.

The e-waste issue is firmly on the public and political agenda and the debate is intensifying. This presents a notable opportunity for companies to join the discussion, through their chambers and associations.

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## U.S.: Sorry, it's occupied -

### Wall Street protest sparks international movement

The Occupy Wall Street social protest, which began as a criticism of what the activists believe is the financial sector's involvement in perpetuating income inequality and social injustice, has grown more vociferous, more organized and more active as its message inspires copycat actions around the United States and around the globe. While the group claims to remain leaderless and has still failed to articulate the concrete outcome that it seeks, it has succeeded in gaining more notoriety and enlisting the support of other credible organizations and individuals who sympathize with the call for social change.

Notable among those supporters are labor leaders. With union membership continuing to fall each year, now less than seven percent of the private workforce,

labor leaders are paying close attention to the Occupy movement. "The labor movement needs to tap into the energy and learn from them," influential union leader Stuart Applebaum told The New York Times. "They are reaching a lot of people and exciting a lot of people that the labor movement has been struggling to reach for years." The popularization of the Occupy movement offers the labor movement the opportunity to rewrite its agenda. The AFL-CIO's communications director defined this as a "crystallizing moment" for the labor movement, providing it with a new way to excite younger people with its message.

From a communications perspective, Occupy Wall Street seemingly employs the full spectrum of tools, from cutting edge technology to the most primitive

communications. The group's forming and momentum is reminiscent of the Arab Spring movement that used social media, particularly Twitter, to organize demonstrations and in some cases revolutions that precipitated significant political change in the Middle East. With a nod to more traditional media, Occupy Wall Street also produces a weekly 4-color daily, the "Occupy Wall Street Journal" to share information within the protestor community and educate passers-by. From a governance perspective, the group also displays the same nascent behaviors of a tribal democracy, with daily assemblies and votes, and a steady stream of speeches and motions to guide the collective's activity.

On Saturday October 15th, the Occupy Wall Street movement mobilized 5,000 demonstrators to converge on Times Square in Midtown Manhattan in their largest show of force yet. This mass protest came on the heels of a touring protest that visited the homes of well-known moguls throughout the city including Rupert Murdoch of News Corp. and Jamie Dimon of JPMorgan. The group's occupation of a park in the Financial District was also threatened

with temporary eviction when unlikely and unwitting landlords, Brookfield Properties, sought police support to move the campers in order to allow for cleaning of the area. This led to a tense standoff that was resolved when the park's owners rescinded the request.

It's hard to say what the future will hold for the Occupations cropping up around the world, and whether this new movement will yield any material benefits on Wall Street or Main Street. Judging by reactions from political leadership, labor unions, and business leaders, it's clear that many seek to capitalize and harness the "Occupy" zeitgeist to rally support for their cause as well. For organizations in financial services, luxury brands or other potential targets of the Occupy protest, it is prudent to update communications plans to reflect this new dynamic and be prepared to engage when appropriate to ensure that reason and logic prevails in the face of an emotional social protest.

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## U.S.: Reputation, reliability challenges for the renewables industry

Over the last month, the news about the Solyndra bankruptcy filing and the subsequent federal probe of the California solar-panel maker has not only embarrassed the White House, but has triggered speculation about the business viability of solar companies. Solar company stocks have fallen significantly over the past several weeks, making the outlook questionable.

The near-daily news and commentary has also raised questions about the energy renewables industry in general. The Obama Administration provided the initial impetus to jump-start the clean energy sector, and Democrats in Congress have largely supported it. Now, the Solyndra issue offers fodder for political posturing leading up to the 2012 presidential elections. During the Republican primary season, candidates have already been taking potshots at the Administration, and it is plausible that specific companies that have received federal government funding will come under more scrutiny during the Presidential debates or through media investigations.

Within the renewables sector the solar industry, in particular, is not only fending off criticisms that

damage the industry reputation, they are also struggling against soft demand and falling prices, triggering an increasing need to try to reassure investors and analysts that this is a temporary setback rather than a longer-term trend.

In the short term, the solar industry needs to do further damage control by separating itself from Solyndra. In the medium term, the solar industry and other renewables will need to prepare for dark clouds as the 2012 election season commences in earnest and Congressional scrutiny on Solyndra and other federal support for renewables continue to be used as anti-Administration political fodder. For the longer-term, the renewables industry will need to continue clearly articulating the business case for renewable energy, highlighting success stories such as bringing on-line truly utility-scale solar power plants in the American West, and continue to advocate for elimination of fossil fuel subsidies.

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