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Telecommunications

The Trans-Pacific Partnership (TPP) levels the playing field for American workers and American businesses, leading to more Made-in-America exports and more higher-paying American jobs here at home. By cutting over 18,000 taxes different countries put on Made-in-America products, TPP makes sure our farmers, ranchers, manufacturers, service suppliers, and small businesses can compete—and win—in some of the fastest growing markets in the world. With more than 95 percent of the world’s consumers living outside our borders, TPP will significantly expand the export of Made-in-America goods and services and support American jobs.

EXECUTIVE SUMMARY

TPP’s Telecommunications chapter will help build a strong framework of trade rules to help ensure the competitive supply of telecommunications services across the TPP region, benefiting U.S. telecommunications operators who seek to operate in TPP markets, and all those industries in the U.S.

that stand to gain from hundreds of millions of potential new customers accessible to them by such networks. This framework ensures that competition can take root and that anticompetitive conduct is discouraged. It also encourages innovative market-based solutions, to promote experimenting with new technologies and allow market forces to deliver services more quickly, more effectively, and more economically. And it extends pro-competitive principles to mobile services—the fastest-growing sector of the industry, which will be the major point of access to Internet and other services for most of the world’s people in coming years.

CHAPTER OVERVIEW

Reasonable access to networks of other suppliers

In a competitive environment, telecommunications depends on the ability of suppliers to access each other’s facilities and services. Operators need to interconnect with each other, which often requires access to a competitor’s physical infrastructure where the two networks can meet. But an incumbent operator often has an incentive not to cooperate, and instead to hinder a competitor. TPP’s Telecommunications chapter accordingly includes provisions intended to ensure that companies offer such access on a reasonable and timely basis.

Fair access to government-controlled resources

Telecommunications services are impossible to provide without access to resources usually controlled by a government: spectrum, rights of way, and phone numbers, among others. The Telecommunications chapter ensures that U.S. suppliers will have equal access to such necessary resources — that the regulator does not favor local suppliers by offering preferential access, and thus impedes competition.

Transparency in rulemaking

Where services are regulated, a transparent process for developing and enforcing rules, with rights of appeal, are critical to ensuring vibrant competition. The Telecommunications chapter ensures the opportunity for stakeholders on all sides to provide input, including for innovative suppliers to demonstrate how they can meet policy objectives more efficiently, for example through the use of technology, or innovative service offerings.

Suppliers' freedom to innovate

Restrictions on technology, often imposed to favor domestic suppliers or technical standards, have hurt U.S. service companies and equipment makers in many markets. The Telecommunications chapter ensures that regulation is impartial across different technologies, helping to ensure that freedom to innovate is the rule. Given U.S. companies' long experience in bringing cutting-edge technologies to market, and the comparative advantage they possess in this sector, this provision will help ensure that U.S. suppliers can compete effectively in foreign markets.

Principle of market-based approach to regulation

TPP countries agree to adopt the principle that in telecommunications, reliance on market forces and commercial negotiations are the preferred means of achieving policy goals, absent market failure or monopolistic behavior. This reflects the approach of the United States. In many cases, this approach provides more freedom for new entrants to innovate.

Cooperation of International Mobile Roaming

To promote competition in the telecommunications sector, the chapter secures commitments from TPP Parties to facilitate the use of alternatives to roaming (i.e., preventing operators from blocking of voice over the Internet (VoIP) services, or disabling Wi-Fi services). In addition, while the United States does not regulate mobile services, where Parties seek to negotiate bilateral roaming rates between two markets, TPP Parties agree to permit operators from the United States or other third countries to benefit from the lower rates.

NEW FEATURES

For the first time in a Free Trade Agreement (FTA), TPP extends pro-competitive network access rules to mobile suppliers. While not directly applicable to the United States because of the competitive nature of our mobile market, this step closes a loophole that has prevented the use of trade disciplines in markets where a dominant mobile operator has been able to thwart competition. Given the interest among U.S. suppliers in entering this subsector in foreign markets and the interest of consumers in accessing innovative products at competitive rates, we expect this to be an important

innovation.

In addition, consumer complaints about unreasonable mobile roaming rates, affecting both voice and data services, spurred TPP Parties to seek greater cooperation in helping bring competitive forces to bear on such rates, which are the bane of tourist and business travelers alike, and are often a disincentive to using telecommunications services. TPP is the first FTA to address this issue.

IMPACT

Robust networks and competitively priced telecommunications services are essential to a 21st-century economy—and the quality and innovative capacity of American telecommunications should enable American workers and businesses to serve consumers across the Asia-Pacific region. High-quality telecommunications drive growth and innovation; allow supply chains and precision logistics to function, provide a platform for the digital economy, which is especially important to small and medium-sized companies; and connect American producers—and consumers—directly to consumers and industrial, agricultural, entertainment, and services markets. The growth and innovation of the U.S. telecommunications sector has derived from pioneering policies of promoting competition and giving both services suppliers and equipment-makers freedom to introduce new technologies. These policies have helped create, in the United States, the largest market by far (by revenue) for information and communications technologies (ICT).^[1]

TPP countries are a natural growth opportunity for the American ICT sector, in both goods and services. Telecommunications services alone are worth over \$300 billion annually in our 11 TPP partners' markets—on average 3 percent of their GDP—providing a gateway to Internet-enabled services and products that have enormous growth and revenue potential, from social networking, to gaming, to cloud computing. Looking ahead, these countries include some of the world's fastest-growing rates of telecom use—from 2009 to 2014, mobile subscription totals have risen from 98 million to 136 million in Vietnam, and Internet access rose from 27 percent to 48 percent of the Vietnamese public. Mexico's figures are comparable, with mobile subscription totals rising from 83 million to 102 million in Mexico, and Internet access from 26 percent to 44 percent of the public. Nor are these figures unique to developing countries: Japanese mobile subscriptions rose from 116 million to 153 million over the same period. And

[1] See OECD, Key ICT Indicators <http://www.oecd.org/sti/broadband/oecdkeyictindicators.htm>

beyond the TPP countries themselves, TPP offers an opportunity to promote competition and support innovation in areas from Internet services to smartphones and tablets and their associated applications and content.

Building these networks means overcoming a range of potential impediments that appear in TPP countries, the Asia-Pacific region, and worldwide, often as a result of government policies. These include prohibitions on investment, or constraints on access to key resources such as spectrum, numbers or rights of ways; or anti-competitive conduct pursued by incumbent players, who can use control over key bottlenecks such as interconnection, roaming arrangements, and access to specific facilities to disadvantage competitors. TPP accordingly addresses both barriers to entry to markets, and policy challenges within markets:

Entry to Markets

Even when a market is nominally open to investment in the telecommunications sector, new entrants often face enormous challenges in getting a foothold. In addition to obtaining a license, a new entrant typically has to rely, in part, on existing operators to reach customers. In such circumstances the opportunities to thwart a competitor are legion. Some of these obstacles are physical—access to buildings, rights of ways, and particular equipment necessary to lay down lines and physically interconnect one network with another. Other obstacles are financial or operational, including lack of access to leased lines and interconnection arrangements.

Policy Barriers

Other obstacles relate to a governments' willingness to offer fair access to scarce resources—spectrum, numbers, and government-controlled rights-of-ways that a new entrant may need in order to offer its services. And finally, both existing operators and government regulators may see new technologies as a threat or as something they cannot adequately control or oversee, hurting the ability of innovative operators to introduce offerings for which technology is their competitive advantage.

