

## **CHAPTER FOURTEEN TELECOMMUNICATIONS**

### ARTICLE 14.1: SCOPE AND COVERAGE

1. This Chapter applies to measures affecting trade in telecommunications services, including:

- (a) measures relating to access to and use of public telecommunications services;
- (b) measures relating to obligations of suppliers of public telecommunications services;
- (c) other measures relating to public telecommunications networks or services; and
- (d) measures relating to the supply of value-added services.

2. Except to ensure that an enterprise operating a broadcast station or cable system has continued access to and use of public telecommunications services, this Chapter (except for Article 14.20) does not apply to any measure relating to broadcast or cable distribution of radio or television programming.

3. Nothing in this Chapter shall be construed to:

- (a) require a Party, or require a Party to compel any enterprise, to establish, construct, acquire, lease, operate, or provide telecommunications networks or services not offered to the public generally; or
- (b) require a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network.

### **Section A: Access to and Use of Public Telecommunications Networks and Services**

#### ARTICLE 14.2: ACCESS AND USE

1. Each Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications network or service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions, including as set out in paragraphs 2 through 6.

2. Each Party shall ensure that service suppliers of the other Party are permitted to:

- (a) purchase or lease and attach terminal or other equipment that interfaces with a public telecommunications network;

- (b) provide services to individual or multiple end-users over leased circuits;<sup>1</sup>
- (c) connect owned or leased circuits with public telecommunications networks and services or with circuits leased or owned by another enterprise;
- (d) perform switching, signaling, processing, and conversion functions; and
- (e) use operating protocols of their choice in the supply of any service.

3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of messages, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services, other than as necessary to:

- (a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services available to the public generally; or
- (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that conditions for access to and use of public telecommunications networks and services satisfy the criteria set out in paragraph 5, such conditions may include:

- (a) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks or services;
- (b) requirements, where necessary, for the inter-operability of such networks and services; and
- (c) type approval of terminal or other equipment that interfaces with the network and technical requirements relating to the attachment of that equipment to such networks.

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<sup>1</sup> For greater certainty, subparagraph (b) shall not be construed to prohibit a Party from requiring a service supplier to obtain a license to supply specific services.

## **Section B: Suppliers of Public Telecommunications Services**

### ARTICLE 14.3: OBLIGATIONS RELATING TO SUPPLIERS OF PUBLIC TELECOMMUNICATIONS SERVICES<sup>2</sup>

#### *Interconnection*

1. (a) Each Party shall ensure that suppliers of public telecommunications services in its territory provide, directly, or indirectly within the same territory, interconnection with suppliers of public telecommunications services of the other Party at reasonable rates.
- (b) In carrying out subparagraph (a), each Party shall ensure that suppliers of public telecommunications services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained as a result of interconnection arrangements and only use such information for the purpose of providing these services.

#### *Number Portability*

2. Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability to the extent technically feasible, and on reasonable terms and conditions.<sup>3</sup>

#### *Dialing Parity and Access to Telephone Numbers*

3. Each Party shall ensure that:
  - (a) suppliers of public telecommunications services in its territory provide dialing parity within the same category of service to suppliers of public telecommunications services of the other Party; and
  - (b) suppliers of public telecommunications services of the other Party in the Party's territory are afforded non-discriminatory access to telephone numbers.

## **Section C: Additional Obligations Relating to Major Suppliers<sup>4</sup>**

### ARTICLE 14.4: TREATMENT BY MAJOR SUPPLIERS

Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications services of the other Party treatment no less favorable than such major supplier accords to itself, its subsidiaries, its affiliates, or non-affiliated service suppliers regarding:

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<sup>2</sup> Article 14.3 is subject to Annex 14-A.

<sup>3</sup> Paragraph 2 does not apply with respect to suppliers of voice over internet protocol services.

<sup>4</sup> Section C is subject to Annex 14-B.

- (a) the availability, provisioning, rates, or quality of like public telecommunications services; and
- (b) the availability of technical interfaces necessary for interconnection.

#### ARTICLE 14.5: COMPETITIVE SAFEGUARDS

1. Each Party shall maintain appropriate measures for the purpose of preventing suppliers of public telecommunications services that, alone or together, are a major supplier in its territory from engaging in or continuing anticompetitive practices.
2. The anticompetitive practices referred to in paragraph 1 include in particular:
  - (a) engaging in anticompetitive cross-subsidization;
  - (b) using information obtained from competitors with anticompetitive results;and
  - (c) not making available, on a timely basis, to suppliers of public telecommunications services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

#### ARTICLE 14.6: RESALE

Each Party shall ensure that a major supplier in its territory does not impose unreasonable or discriminatory conditions or limitations on the resale of its public telecommunications services.

#### ARTICLE 14.7: UNBUNDLING OF NETWORK ELEMENTS

Each Party shall provide its telecommunications regulatory body the authority to require a major supplier in its territory to offer access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent for the supply of public telecommunications services.

#### ARTICLE 14.8: INTERCONNECTION

##### *General Terms and Conditions*

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications services of the other Party:
  - (a) at any technically feasible point in the major supplier's network;
  - (b) under non-discriminatory terms, conditions (including technical standards and specifications), and rates;

- (c) of a quality no less favorable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;
- (d) in a timely fashion, and on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers need not pay for network components or facilities that they do not require for the service to be provided; and
- (e) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

#### *Options for Interconnecting with Major Suppliers*

2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of the other Party the opportunity to interconnect their facilities and equipment with those of the major supplier through:

- (a) negotiation of a new interconnection agreement; and
- (b) one of the following options:
  - (i) a reference interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications services; or
  - (ii) the terms and conditions of an interconnection agreement in effect.

#### *Public Availability of Interconnection Offers and Agreements*

3. If a major supplier in the territory of a Party has a reference interconnection offer, the Party shall require the offer to be made publicly available.

4. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

5. Each Party shall require a major supplier in its territory to file all interconnection agreements to which it is party with its telecommunications regulatory body.<sup>5</sup>

6. Each Party shall make publicly available interconnection agreements in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory.

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<sup>5</sup> The United States may comply with paragraph 5 by requiring filing with a state regulatory authority.

#### ARTICLE 14.9: PROVISIONING AND PRICING OF LEASED CIRCUITS SERVICES<sup>6</sup>

1. Each Party shall ensure that a major supplier in its territory provides service suppliers of the other Party leased circuits services that are public telecommunications services on terms and conditions, and at rates, that are reasonable and non-discriminatory.
2. In carrying out paragraph 1, each Party shall provide its telecommunications regulatory body the authority to require a major supplier in its territory to offer leased circuits services that are public telecommunications services to service suppliers of the other Party at capacity-based, cost-oriented prices.

#### ARTICLE 14.10: CO-LOCATION

1. Subject to paragraphs 2 and 3, each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications services of the other Party in the Party's territory physical co-location of equipment necessary for interconnection or access to unbundled network elements on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent.
2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that a major supplier in its territory provides an alternative solution<sup>7</sup> on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent.
3. Each Party may limit which premises are subject to paragraphs 1 and 2, provided the Party specifies any such limitation in its law or regulations.

#### ARTICLE 14.11: ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

Each Party shall ensure that a major supplier in its territory affords access to poles, ducts, conduits, and rights-of-way owned or controlled by the major supplier to suppliers of public telecommunications services of the other Party in the Party's territory on terms and conditions, and at rates, that are reasonable, non-discriminatory, and transparent.

### **Section D: Other Measures**

#### ARTICLE 14.12: SUBMARINE CABLE SYSTEMS

1. Where a supplier of telecommunications services in the territory of a Party operates a submarine cable system to provide public telecommunications services, that Party shall ensure that the supplier accords suppliers of public telecommunications services of the other Party reasonable and non-discriminatory treatment with respect to access<sup>8</sup> to that submarine cable system, including landing facilities.

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<sup>6</sup> Article 14.9 shall not be construed to require a Party to ensure that the major supplier provides leased circuits as an unbundled network element.

<sup>7</sup> The United States may comply with the obligation in Article 14.10.2 to ensure that a major supplier in its territory provides an alternative solution by ensuring that the supplier provides virtual co-location.

<sup>8</sup> With respect to a supplier of the other Party that does not own facilities in the territory of the Party in

2. Where a major supplier of international public telecommunications services in the territory of a Party controls cable landing facilities and services for which there are no economically or technically feasible alternatives, the Party shall ensure that the major supplier:<sup>9</sup>

- (a) permits suppliers of public telecommunications services of the other Party to:
  - (i) use the major supplier's cross-connect links in the submarine cable landing station to connect their equipment to backhaul links and submarine cable capacity of any supplier of telecommunications; and
  - (ii) co-locate their transmission and routing equipment used for accessing submarine cable capacity and backhaul links of any supplier of telecommunications in the submarine cable landing station on terms and conditions, and at cost-oriented rates, that are reasonable, transparent, and non-discriminatory; and
- (b) provides suppliers of telecommunications of the other Party international leased circuits, backhaul links, and cross-connect links in the submarine cable landing station on terms and conditions, and at rates, that are reasonable, transparent, and non-discriminatory.<sup>10</sup>

#### ARTICLE 14.13: CONDITIONS FOR THE SUPPLY OF VALUE-ADDED SERVICES

1. Neither Party may require an enterprise in its territory that it classifies as a supplier of value-added services and that supplies those services over facilities that the enterprise does not own to:

- (a) supply those services to the public generally;
- (b) cost-justify its rates for those services;
- (c) file a tariff for those services;
- (d) connect its networks with any particular customer for the supply of those services; or
- (e) conform with any particular standard or technical regulation of the telecommunications regulatory body for connecting to any other network, other than a public telecommunications network.

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which the cable landing system is located, that Party may comply with paragraph 1 by ensuring access to the submarine cable system through facilities that the supplier of the other Party leases from a licensed supplier of public telecommunications services in the territory of the Party.

<sup>9</sup> Paragraph 2 is subject to Annex 14-B.

<sup>10</sup> Notwithstanding paragraph 2, a Party may permit a major supplier in its territory to limit access to or use of its submarine cable landing station if capacity at the station is unavailable.

2. Notwithstanding paragraph 1, a Party may take the actions described in paragraph 1 to remedy a practice of a supplier of value-added services that the Party has found in a particular case to be anticompetitive under its law or regulations, or to otherwise promote competition or safeguard the interests of consumers.

#### ARTICLE 14.14: INDEPENDENT REGULATORY BODIES

Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not own equity<sup>11</sup> or maintain an operating or management role in any such supplier. Each Party shall ensure that its regulatory decisions and procedures, including decisions and procedures relating to licensing, interconnection with public telecommunications networks and services, tariffs, and assignment or allocation of spectrum for non-government public telecommunications services, are impartial with respect to all market participants.

#### ARTICLE 14.15: UNIVERSAL SERVICE

Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory, and competitively neutral manner and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

#### Article 14.16: LICENSING PROCESS

1. When a Party requires a supplier of public telecommunications services to have a license, the Party shall make publicly available:

- (a) all the licensing criteria and procedures it applies;
- (b) the period it normally requires to reach a decision concerning an application for a license; and
- (c) the terms and conditions of all licenses in effect.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the denial of a license.

#### ARTICLE 14.17: ALLOCATION AND USE OF SCARCE RESOURCES

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, numbers, and rights-of-way, in an objective, timely, transparent, and non-discriminatory manner.

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<sup>11</sup> For greater certainty, Article 14.14 shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of public telecommunications services.



2. Each Party shall make publicly available the current state of allocated frequency bands, but retains the right not to provide detailed identification of frequencies allocated or assigned for specific government uses.

3. A Party's measures allocating and assigning spectrum and managing frequency are not measures that are *per se* inconsistent with Article 12.4 (Market Access) either as it applies to cross-border trade in services or through the operation of Article 12.1.3 (Scope and Coverage) to an investor or covered investment of the other Party. Accordingly, each Party retains the right to establish and apply spectrum and frequency management measures that may have the effect of limiting the number of suppliers of public telecommunications services, provided that it does so in a manner consistent with this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. Each Party shall endeavor to allocate and assign spectrum for non-government telecommunications services in a manner that encourages economically efficient use of the spectrum and competition among suppliers of telecommunications services, recognizing that a Party may encourage this behavior through a variety of means, including through administrative incentive pricing, auctions, or unlicensed use.

#### ARTICLE 14.18: ENFORCEMENT

Each Party shall provide its competent authority the authority to enforce the Party's measures relating to the obligations set out in Articles 14.2 through 14.12. That authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), corrective orders, or the modification, suspension, or revocation of licenses.

#### ARTICLE 14.19: RESOLUTION OF TELECOMMUNICATIONS DISPUTES<sup>12</sup>

Further to Articles 21.3 (Administrative Proceedings) and 21.4 (Review and Appeal), each Party shall ensure that:

##### *Recourse*

- (a) (i) enterprises may have recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes regarding the Party's measures relating to matters set out in Articles 14.2 through 14.12; and
- (ii) suppliers of public telecommunications services of the other Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable and publicly specified period after the supplier requests interconnection, by its telecommunications regulatory body<sup>13</sup> to resolve disputes regarding

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<sup>12</sup> For Korea, for purposes of Article 14.19, **enterprise** means a natural person or a juridical person organized under the laws of Korea.

<sup>13</sup> The United States may comply with subparagraph (a)(ii) by providing for review by a state regulatory authority.

the terms, conditions, and rates for interconnection with that major supplier;

*Reconsideration*

- (b) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may petition the body to reconsider that determination or decision. Neither Party may permit such a petition to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body unless an appropriate authority stays the determination or decision;<sup>14</sup> and

*Judicial Review*

- (c) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may obtain review of the determination or decision by an impartial and independent judicial authority of the Party. Neither Party may permit an application for judicial review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body unless the relevant judicial body stays the determination or decision.

ARTICLE 14.20: TRANSPARENCY

Further to Article 21.1 (Publication), each Party shall ensure that:

- (a) rulemakings, including the basis for such rulemakings, of its telecommunications regulatory body and tariffs filed with its telecommunications regulatory body are promptly published or otherwise made publicly available;
- (b) interested persons are provided with adequate advance public notice of, and reasonable opportunity to comment on, any rulemaking that its telecommunications regulatory body proposes;
- (c) to the extent practicable, all comments filed with the telecommunications regulatory body in the rulemaking are made publicly available;
- (d) its telecommunications regulatory body responds in its rulemaking to all significant and relevant issues raised in comments filed with the telecommunications regulatory body; and
- (e) its measures relating to public telecommunications services are made publicly available, including:

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<sup>14</sup> For Korea, subparagraph (b) does not apply to a determination or decision of the telecommunications regulatory body with respect to disputes between service suppliers or between service suppliers and users.

- (i) measures relating to
  - (A) tariffs and other terms and conditions of service;
  - (B) specifications of technical interfaces;
  - (C) conditions for attaching terminal or other equipment to the public telecommunications network; and
  - (D) notification, permit, registration, or licensing requirements, if any; and
- (ii) procedures relating to judicial and other adjudicatory proceedings.

ARTICLE 14.21: MEASURES CONCERNING TECHNOLOGIES AND STANDARDS<sup>15</sup>

1. The Parties recognize that measures concerning technologies and standards may contribute to legitimate public policy objectives, and that a regulatory approach that affords suppliers of public telecommunications and value-added services the flexibility to choose the technologies that they use to supply their services may contribute to innovation in and development of information and communications technologies.

2. A Party may apply a measure that limits the technologies or standards that a supplier of public telecommunications or value-added services may use to supply its services, provided that the measure is designed to achieve a legitimate public policy objective and is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade. Except with respect to technical requirements referred to in paragraph 3, each Party retains the right to define its own legitimate public policy objectives, recognizing that affording protection to domestic suppliers of telecommunications or value-added services or equipment is not a legitimate public policy objective.

3. A Party may apply a technical requirement<sup>16</sup> that limits the technologies or standards that a supplier of public telecommunications or value-added services may use to supply its services in a particular spectrum frequency band, provided that the requirement is designed to ensure effective or efficient use of the spectrum (including with respect to preventing harmful interference), safeguard consumers' continued access to domestic or international networks or services,<sup>17</sup> facilitate law enforcement, or protect human health or safety.

4. To the extent possible, each Party shall endeavor to base its technical requirements relating to the supply of telecommunications or value-added services on performance rather than design or descriptive characteristics.

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<sup>15</sup> Except for paragraphs 1 and 5(b), Article 14.21 does not apply to measures adopted before the date this Agreement enters into force.

<sup>16</sup> The Parties recognize that it may be appropriate to base technical requirements regarding the supply of public telecommunications or value-added services on international standards.

<sup>17</sup> For greater certainty, "safeguard consumers' continued access to domestic or international networks or services" includes facilitating consumers' ability to access mobile networks globally.

5. If a Party adopts a measure that mandates the use of a specific technology or standard, or otherwise limits a supplier's ability to choose the technology it uses, to supply a telecommunications or value-added service, it shall:

- (a) do so on the basis of a rulemaking
  - (i) in which the Party determines that market forces have not achieved, or could not reasonably be expected to achieve, its legitimate public policy objective; and
  - (ii) that affords suppliers of telecommunications or value-added services or equipment the opportunity to demonstrate that an alternative technology or standard could achieve the Party's legitimate public policy objective; and
- (b) after adopting the measure, provide suppliers of telecommunications or value-added services or equipment opportunities to request the Party to initiate a rulemaking to permit, in addition, the use of an alternative technology or standard that could effectively and reasonably achieve the Party's legitimate public policy objective. The Party shall respond to any such request in writing, stating the reasons for accepting or rejecting the request, including how amending or not applying the measure may affect consumers, and make the response and, to the extent practicable, the request publicly available.

#### ARTICLE 14.22: FORBEARANCE

1. The Parties recognize the importance of relying on competitive market forces to provide wide choice in the supply of telecommunications services. To this end, each Party may forbear, to the extent provided for in its law, from applying a regulation to a service that the Party classifies as a public telecommunications service, if its telecommunications regulatory body determines that:

- (a) enforcement of the regulation is not necessary to prevent unreasonable or discriminatory practices;
- (b) enforcement of the regulation is not necessary for the protection of consumers; and
- (c) forbearance is consistent with the public interest, including promoting and enhancing competition between suppliers of public telecommunications services.

2. For greater certainty, each Party shall subject its regulatory body's decision to forbear to judicial review in accordance with Article 14.19(c).

#### ARTICLE 14.23: RELATION TO OTHER CHAPTERS

In the event of any inconsistency between this Chapter and another Chapter, this Chapter

shall prevail to the extent of the inconsistency.

#### ARTICLE 14.24: DEFINITIONS

For purposes of this Chapter:

**backhaul links** means end-to-end transmission links from a submarine cable landing station to another primary point of access to any public telecommunications network;

**commercial mobile services** means public telecommunications services supplied through mobile wireless means;

**cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

**cross-connect links** means the links in a submarine cable landing station used to connect submarine cable capacity to the transmission, switching, or routing equipment of any supplier of public telecommunications services co-located in that submarine cable landing station;

**dialing parity** means the ability of an end-user to use an equal number of digits to access a particular public telecommunications service, regardless of which public telecommunications services supplier the end-user chooses;

**end-user** means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

**enterprise** means an enterprise as defined in Article 1.4 (Definitions) and includes a branch of an enterprise;

**essential facilities** means facilities of a public telecommunications network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to supply a service;

**interconnection** means linking with suppliers providing public telecommunications services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

**leased circuits** means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a user;

**major supplier** means a supplier of public telecommunications services that has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market;

**network element** means a facility or equipment used in supplying a public telecommunications service, including features, functions, and capabilities provided by means of that facility or equipment;

**non-discriminatory** means treatment no less favorable than that accorded to any other user of like public telecommunications networks or services in like circumstances;

**number portability** means the ability of end-users of public telecommunications services to retain, at the same location, the same telephone numbers without impairment of quality, reliability, or convenience when switching between the same category of suppliers of public telecommunications services;

**public telecommunications network** means telecommunications infrastructure used to provide public telecommunications services;

**public telecommunications service** means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally. Such services may include, *inter alia*, telephone and data transmission typically involving customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, and excludes value-added services;

**physical co-location** means physical access to space in order to install, maintain, or repair equipment, at premises owned or controlled and used by a supplier to provide public telecommunications services;

**reference interconnection offer** means an interconnection offer extended by a major supplier and filed with or approved by a telecommunications regulatory body<sup>18</sup> that sufficiently details the terms, rates, and conditions for interconnection such that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis;

**service supplier of the other Party** means, with respect to a Party, a person that is either a covered investment in the territory of the Party or a person of the other Party and that seeks to supply or supplies services in or into the territory of the Party, and includes a supplier of public telecommunications services;

**telecommunications** means the transmission and reception of signals by any electromagnetic means;

**telecommunications regulatory body** means a body at the central level of government responsible for the regulation of telecommunications;

**user** means a service consumer or a service supplier; and

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<sup>18</sup> For the United States, this body may be a state regulatory authority.

**value-added services** means services that add value to telecommunications services through enhanced functionality, and specifically:

- (a) for the United States, means those services as defined in 47 U.S.C. § 153(20); and
- (b) for Korea, means those services as defined in Article 4.4 of the *Telecommunications Business Act*.

**ANNEX 14-A**  
**SUPPLIERS OF PUBLIC TELECOMMUNICATIONS SERVICES**

**Korea**

1. Article 14.3.3 does not apply to Korea with respect to suppliers of international public telecommunications services.

**United States**

2. A state regulatory authority of the United States may exempt a rural local exchange carrier, as defined in Section 251(f)(2) of the *Communications Act of 1934*, as amended, from the requirements contained in paragraphs 2 and 3 of Article 14.3.

3. Article 14.3.3(a) does not apply to the United States with respect to suppliers of commercial mobile services.



**ANNEX 14-B**  
**ADDITIONAL OBLIGATIONS RELATING TO MAJOR SUPPLIERS**

**Korea**

1. Article 14.7, paragraphs 1(a), 1(e), and 2(a) of Article 14.8, Article 14.10, and Article 14.11 do not apply to Korea with respect to non-facilities-based suppliers of public telecommunications services.
2. With respect to subparagraphs (b) through (d) of Article 14.8.1 and Article 14.9, Korea may permit major suppliers to offer rates, terms, and conditions to non-facilities-based suppliers of public telecommunications services that are less favorable than those offered to facilities-based suppliers of public telecommunications services. For greater certainty, Korea shall ensure that a non-facilities-based supplier of public telecommunications services may have recourse, as provided in Article 14.19, to the telecommunications regulatory body regarding disputes over such rates, terms, and conditions.
3. With respect to a non-facilities-based supplier of public telecommunications services, Article 14.8.2(b) applies to Korea only with respect to (i) an interconnection agreement in effect between the major supplier and a non-facilities-based supplier of public telecommunications services or (ii) a reference interconnection offer that a major supplier offers generally to non-facilities-based suppliers of public telecommunications services.
4. Article 14.12.2 applies to Korea only with respect to suppliers of public telecommunications services that Korea has licensed as facilities-based suppliers of public telecommunications services pursuant to Article 4 of the *Telecommunications Business Act*.
5. Consistent with Article 4.3 of the *Telecommunications Business Act*, a “non-facilities-based supplier” is a licensed supplier of public telecommunications services that does not own wire or wireless lines or other transmission facilities, but may own a switch, router, or multiplexer, and supplies its public telecommunications services through transmission facilities of a licensed facilities-based supplier.
6. Articles 14.4, 14.6, and 14.7 and Articles 14.9 through 14.11 do not apply to Korea with respect to suppliers of commercial mobile services.

**United States**

7. Articles 14.4 through 14.11 do not apply to the United States with respect to a rural telephone company, as defined in section 3(37) of the *Communications Act of 1934*, as amended, unless a state regulatory authority orders the requirements described in those Articles to be applied to the company. In addition, a state regulatory authority may exempt a rural local exchange carrier, as defined in section 251(f)(2) of the *Communications Act of 1934*, as amended, from the requirements contained in Articles 14.4 through 14.11.
8. Article 14.4 and Articles 14.6 through 14.11 do not apply to the United States with respect to suppliers of commercial mobile services.