

WSC Summaries and Conclusions

Telecommunications Report by Chip Barton AT & T Asia/Pacific, Hong Kong SAR

Telecommunications Liberalization: Unfinished Business

The panel discussion noted the importance of the fact that this is a sector which, along with computer and related services, is at the core of the Information Economy. While past WTO services negotiations have yielded substantial market openings for telecommunications services, much still remains to be done.

- 57 of the WTO's 142 members have not scheduled any basic-telecom commitments.
- For 48 members with basic-telecom commitments, the date for any significant market opening of public wireline services is still in the future, in some cases a decade or more away if ever.
- More than 60 members have not scheduled any value-added-telecom commitments.
- Over 15 members with value-added-telecom commitments placed restrictions on who can supply the underlying transmission facilities.
- 67 members scheduled no or very limited computer-and-related-services commitments.

The panel members also observed that liberalizing telecommunications does not require a WTO commitment. And indeed a number of economies—Hong Kong was examined as a specific example—have accelerated their market openings.

The panel also recognized the critical role regulation plays in the telecommunications sector to ensure the development of full and effective competition. There is a need for greater legal certainty that market-access commitments are meaningful and can be enforced in dispute settlement. Many WTO members have gained first-hand experience in regulating a liberalized telecom sector, leading to a greater understanding of and appreciation for what is really required.

The panel also noted that regulatory distinctions were disintegrating, requiring fresh thinking as to how to regulate the sector.

Recommendations included:

The upcoming services negotiations should strive for full and immediate liberalization of telecommunications services by *all* WTO members.

WTO members should voluntarily liberalize now and not delay until the completion of the WTO negotiations. Within the Asia-Pacific region in particular, APEC economies should make voluntary liberalization part of their efforts to promote e-APEC.

While the Reference Paper should not be reopened, learnings from telecommunications liberalization that has already occurred should be used to identify any additional commitments that would supplement the Reference Paper. The general commitments on domestic regulation in GATS Article VI should be clarified, giving regulators greater guidance. For example:

- Impose solid disciplines on licensing procedures—the types of licenses, the conditions that can be imposed to obtain a license, and the scope of information requested in a license application. The licensing criteria should be objective, not more burdensome than necessary to ensure the delivery of the service, and not in themselves a restriction on the supply of the service. Licenses should be broad in scope and allow suppliers to provide the licensed service by either building or leasing facilities depending on the supplier's business plan and economic conditions. Blanket licensing should be used for those services that do not use scarce resources and do not pose competitive harms.
- Specify in more detail the types of safeguards required in order to be in compliance with the competitive-safeguards provisions of the Reference Paper, such as requirements for structural or accounting separation and for number portability.
- Set out the network elements that, at a minimum, should be available separately on an unbundled basis—such as the local loop—and the parameters for determining their cost for rate setting—such as use of long-run incremental cost.
- Clarify the degree of separation that is necessary between any operator and the regulator in order to ensure independence and impartiality in regulatory decision-making.
- Recognize that Voice over Internet Protocol (VOIP) is an important development that will drive down the cost of telecommunications services and therefore regulators should treat it in a permissive manner.

The panel also reinforced the principle of technological neutrality to the extent possible.

Finally, the WTO should make clear that the content of voice and data messages is covered under other services schedules, such as medical services, educational services, financial services, etc.