

Annex on Telecommunications Services

Article 1: Scope

1. This Annex applies to measures by a Party affecting trade in telecommunication 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.

[CR/MU/NZ propose; ~~AMU/CH/PK~~ considering; AU/CA/CO/EU/IL/JP/KR/MU/NO/US oppose: subject to any terms, limitations, conditions and qualifications set out in its schedule.]

This does not reflect Parties' views on the definitions contained in this paragraph.

2. This Annex shall not apply to any measure relating to [CA/KR/MU/NZ propose; ~~HK considering~~: the transmission by any means of telecommunications, including] broadcast¹ or cable distribution [CA/KR/MU/NZ propose:.] of radio or television programming, ~~[HK/PK oppose:~~ except that:
 - (a) ~~[HK considering:~~ Article 9 [Access to and Use of Public Telecommunications Services] shall apply with respect to cable or broadcast service suppliers' access to and use of public telecommunications services; ~~[HK propose, PK considering: ²] and [HK propose, PK considering: ³]~~
 - (b) ~~[AU/CA/CO/CL/TW/EU/IL/IS/JP/KR/LI/MU/MX/NZ/NO/PA/PE/CH/TR/US propose; CR considering:~~ Article 7 [Transparency] shall apply to any technical measures to the extent that such measures also affect public telecommunications services. ~~}]~~

For greater certainty, when service suppliers engaged in the broadcast or cable distribution of radio or television programming are also engaged in the supply of public telecommunications services, measures relating to the supply of such public telecommunications services by such service suppliers is covered by this Annex.⁴

3. Nothing in this Annex shall be construed:

¹ [PK propose: Broadcasting shall be defined as provided for in the relevant legislation of each Party]

² ~~[HK propose, PK considering: For greater certainty, such access and use does not include the transmission or reception of signals for broadcast or cable distribution of radio and television programming.]~~

³ ~~[HK propose, PK considering: For greater certainty, such access and use does not include the transmission or reception of signals for broadcast or cable distribution of radio and television programming.]~~

⁴ ~~[AU/CA/CL/TW/CO/CR/EU/HK/IL/JP/KR/MU/MX/NO/NZ/PA/PE/PK/CH/US propose:—Nothing in this Annex shall be construed to require a Party to compel any service supplier 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.]~~

- (a) to require a Party, or require a Party to compel any service supplier, to establish, construct, acquire, lease, operate, or supply telecommunications networks or services not offered to the public generally;
 - (b) to prevent a Party from prohibiting persons operating private networks from using their private networks to supply public telecommunications networks or services to third persons.
 - (c) ~~AU/CA/CH/CL/CO/CR/EU/IL/IS/HK/JP/KR/LI/MU/MX/NO/NZ/PA/PE/PK/TW/TR/US propose:~~ to require a Party to authorise an juridical person of another Party to establish, construct, acquire, lease, operate, or supply public telecommunications services, other than as specifically provided elsewhere in this Agreement.
4. For greater certainty, this Annex does not prohibit any Party from requiring a person to obtain a license to supply, by any mode of supply identified in Article I-1:2, any public telecommunications service within its territory.
5. [**CL/CO/PA/PE/US propose:** Appendix X – Rural Telephone Suppliers include additional provisions relating to the scope of this Annex.]

Articulation of the relationship between this Annex and other Annexes under Part III is under consideration.

Article 2: ~~[EU: Openness of Telecommunication Services Markets]~~

1. ~~[AU/CA/CH/CL/TW/CO/EU/HK/IS/IL/JP/KR/LI/MU/MX/NO/NZ/PA/PE/PK/TR/US propose, CR oppose: No Party may accord more favourable treatment to a supplier of telecommunications services in its territory than that accorded to a like service supplier of another party on the basis that the supplier receiving more favourable treatment is owned by the [AU/CA/CL/CO/EU/HK/IS/JP/KR/LI/MX/NO/NZ/PA/PE/TR oppose: PK considering: national] government of the Party.]~~

~~Parties will reflect on placing this paragraph at the end of the Annex together with the other CRPs in view of a horizontal proposal for guidelines on CRPs~~

~~[CO/EU/IS/LI/MU/NO/CH propose; CA/CR/HK/IL/KR/PE/PK oppose: Foreign Ownership~~

- ~~2. [CO propose: Each Party shall endeavour to] [CH propose: Parties should] [CO/CH propose: allow] [CO propose: full] [CO/CH propose: foreign participation in [CO/CH propose: their] telecommunications services sectors, through establishment [CO oppose: or other means] [CO/CH propose: without limitations of foreign capital participation].~~

- ~~3. [EU/IS/MU/NO propose; AU/JP/KR/NZ/US oppose: No Party shall impose joint venture requirements or limit the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment as a condition to supply telecommunication services through the establishment of a commercial presence.]~~

~~[EU/IS/JP/NO propose; CR/IL/KR/NZ/PA/PE/TR oppose: Cross border trade in telecommunication services~~

- ~~4. No Party shall impose limitations, in the meaning of Article I 3 (Market Access) and I 4 (National Treatment), on the ability of services providers to supply telecommunication services on a cross border basis⁵.]~~

- ~~5. [AU/CA/CL/CR/HK/IL/KR/MU/MX/NZ/PA/PE/PK/TR oppose: [IS/ NO/CH propose: and shall not require] [EU/TW propose: shall endeavour not to require] [CH propose: commercial presence for the supply of such services].]~~

- ~~6. [CA/AU/CO/CR/HK/MU/NZ/PA/PE oppose: [CH/EU/IS/LI/MX/NO propose: No Party shall impose or maintain any limitations on the number of licenses except] [EU/IS/LI/MU/NO/CH/ propose: for the purpose of [EU/IS/LI/NO oppose: addressing a limited set of specified regulatory issues, [such as]] the assignment of frequencies] [EU/IS/LI/NO/CH/ propose: and other scarce resources].]~~

⁵ ~~[JP propose: As described in Article I – 1; 2 (a, b) (Mode 1 and 2)]~~

Article 3: Telecommunications Regulatory Body

1. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of ~~[CA/CL/EU/IS/JP/NO oppose: public]~~ telecommunications services. To this end, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest⁶ or maintain an operating or management role in any such supplier ~~[CH propose:7]~~.
2. Each Party shall provide its telecommunications regulatory body or other competent authority with the authority to enforce the Party's measures [placeholder for relevant provisions]. Such authority shall include the ability to impose sanctions.
3. Each Party shall ensure that regulatory decisions and procedures of its telecommunications regulatory body or other competent authority, ~~[AU/CA/CO/CL/CR/IL/IS/JP/KR/MX/MU/NO/NZ/PA/PE/PK/TW/US propose; HK considering; CH/EU/LI/TR oppose: related to provisions contained in this Annex]~~, are impartial with respect to all market participants.
- ~~5. [JP/US propose; CO considering, EU oppose: Each Party shall ensure that any supplier of public telecommunications services of another Party may petition the telecommunication regulatory body or other competent authority concerning regulations of such body related to obligations set out in this Annex.]~~
- ~~6. [US propose; CO considering, EU oppose: Each Party shall ensure that its telecommunications regulatory body [CO oppose: periodically] reviews regulations adopted by that Party's telecommunications regulatory body concerning regulations related to obligations set out in this Annex to consider whether any such regulation should be modified or repealed as a result of economic competition.]~~

⁶ ~~[AU/CA/CL/TW/CO/CR/EU/HK/IS/IL/JP/KR/LI/MU/MX/NZ/NO/PA/PK/PE/TR/US propose: This paragraph 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.]~~~~[CA/CO/EU/IS/JP/KR/LI/MU/NO/TR/US propose; /CO/EU/MU/MX considering; NZ/PK oppose: In such a case, the Party shall ensure [CO/NZ oppose: effective]~~~~[CO propose: formal]~~ structural separation of the regulatory function with the activity associated with ownership or control].

⁷ ~~[CH propose; CA/US oppose: It is understood that this paragraph does not apply in cases where two ministries, one of which being the Ministry of Finance, are the shareholders of a telecommunications service supplier.]~~

Article 4: Technology Choice

1. ~~[CA/CL/CO/CR/JP/KR/MU/MX/PE/TW/US propose, AU/#CA/EU/CA/PE considering: No Party may prevent a supplier of public telecommunications services from choosing the technologies it desires to use to supply its services subject to requirements [KR oppose: necessary] [KR propose: designed] to satisfy legitimate public policy interests, [CR oppose; CA considering: provided that any measure restricting such choice is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade.] [KR proposes alt.; CA considering: provided that any measure restricting such choice does not constitute a disguised restriction on trade in services.]]~~
2. ~~[CO/KR/MU/US propose; MX considering; CR oppose: If a Party adopts a measure that mandates the use of a specific technology or standard, or otherwise limits the ability of a supplier of public telecommunications services to choose the technology it uses, to supply its service, it shall do so on the basis of a rulemaking in which the Party determines that market forces have not achieved, or could not reasonably be expected to achieve, its legitimate public policy objective.]~~
23. ~~[AU/JP/MU/NZ propose; CL/CO/KR/PE/US considering: When a Party finances the development of advanced networks, it may make its financing conditional on the use of technologies that meet its specific public policy interests.⁸]~~
4. ~~[KR propose, CR oppose: For greater certainty, a Party retains the right to define its own legitimate public policy objectives; and whenever such a measure is based on relevant international standards, it shall be rebuttably presumed not to create unnecessary obstacles to trade.]~~

⁸ [AU propose: For greater certainty, “advanced networks” includes broadband networks.]

~~[EU/IS/LI/MX oppose:~~

Article 5: ~~[CA/CL/TW/CO/HK/JP/MU/US propose;~~

~~AU/CA/COCR//TW/HK/JP/IL/KR/MX/NZ/PE/PK/PA/US considering:~~ **Approaches to Regulation**

1. ~~[AU/NZ/PE propose:~~ The Parties recognise the importance of relying on competitive market forces to achieve legitimate public policy objectives for telecommunication services. ~~Accordingly, t~~The Parties recognise that each Party may determine how best to implement its obligations under this Annex. In this regard, a Party may, as appropriate, choose to engage in direct regulation, ~~or use any other appropriate means that benefit the long term interests of consumers;~~ or rely on market forces particularly with respect to market segments that are, or are likely to be competitive [**US propose:** or those with low barriers to entry] ; ~~or use any other appropriate means that benefit the long term interests of consumers.]~~
2. ~~[NZ/PE considering:~~ For greater certainty, when a Party chooses to engage in direct regulation of a public telecommunications service, it may forbear, to the extent provided in its domestic law, from applying that regulation to a service. A Party that forbears from applying a regulation to a telecommunications service in accordance with paragraph 1 is subject to the obligations of this Annex.]]

Article 6: Licenses

1. When a Party requires a supplier of [EU/IS/NO oppose: public] telecommunications services to have a license, the Party shall ensure the public availability of:
 - (a) all the licensing criteria and procedures it applies;
 - (b) the period of time it normally requires to reach a decision concerning an application for a license; and
 - (c) terms and conditions of all licenses in effect.
2. Each Party shall ensure that, on request, an applicant receives the reasons for any
 - (a) denial of a license;
 - (b) imposition of supplier-specific conditions on a license;
 - (c) revocation of a license; or

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(d) refusal to renew a license.

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Article 7: Transparency

1. Further to [placeholder for Transparency article in core text and other provisions in this Annex in relation to publication of information,], each Party shall ensure that its measures relating to public telecommunications services are made publicly available, including:
- (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.
 - (e) general procedures [relating to resolution of telecommunications disputes provided for in Article 8 (Resolution of Dispute)]; and
 - (f) any measures where the government delegates to other bodies the responsibility for preparing, amending, and adopting standards-related measures affecting access and use.
2. ~~[US propose, CO/CH/EU/IS/LI/NO/PK/MU/TR oppose: Each Party shall ensure that where a telecommunications regulatory body seeks input⁹ for a proposal for a regulation it shall:~~
- ~~(a) make the proposal public or otherwise available to any interested persons;~~
 - ~~(b) include an explanation of the purpose of and reasons for the proposal;~~
 - ~~(c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment;~~
 - ~~(d) to the extent practicable, make publicly available all relevant comments filed with it; and~~
 - ~~(e) respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation.¹⁰]~~

⁹ ~~[US propose: For greater certainty, seeking input does not include internal governmental deliberations.]~~

¹⁰ ~~[US propose: For greater certainty, a Party may consolidate its responses to the comments received from interested persons.]~~

Article 8: Resolution of Disputes

Recourse to Regulatory Authority

1. ~~{JP-US propose: Further to Article X (Core Text – Domestic Regulation),}~~ Each Party shall ensure that:

- (a) a supplier of a public telecommunications [network or] service of another Party has recourse to ~~{itsa }~~ ~~{a}~~ telecommunications regulatory body or other competent authority ~~{CA oppose: of the Party}~~ to resolve disputes regarding the Party's measures relating to matters set out in [this Annex/Articles to be determined]; ~~{US propose: and}~~
- (b) if a telecommunications regulatory body declines to initiate any action on a request to resolve a dispute, it shall, upon request, provide a written explanation for its decision within a reasonable period of time: ~~{US propose: and}~~.

~~2. ~~{JP/US propose; KR considering : Each Party shall ensure that a juridical person of another Party has timely recourse to an impartial and independent authority of the Party to resolve disputes regarding the Party's measures relating to matters set out in [this Annex/Articles to be determined]. Such authority may be a judicial, quasi-judicial or administrative authority, as provided in the domestic law of the Party.}~~~~

~~{US propose: 3. Each Party shall ensure that}~~ (c) _____ suppliers of public telecommunications services of another Party that have requested interconnection with a major supplier in the Party's territory may have recourse, within a reasonable and publicly available period of time after the supplier requests interconnection, to a telecommunications regulatory body or other competent authority to resolve disputes regarding the terms, conditions, and rates for interconnection with such major supplier.]

~~Alt 2. {AU/CA/CL/CO/CR/TW/KR/EU/HK/IL/IS/, JP/MU/NO/NZ/PA/CH/TR/, US propose, EULI/MX/PE considering alt. 2: To the extent provided for under domestic law, each Party shall ensure that a service supplier may {CA/EU propose: appeal to or} petition the telecommunication regulatory body or other competent authority to reconsider its determination or decision. A Party may limit the circumstances under which reconsideration is available, in accordance with its laws and regulations}.~~

~~Alt 3. -{AU/CA/CL/CO/CR/TW/EU/HK/IL/IS/JP/KR/LI/MU/NO/NZ/PE/CH/TR/US propose; MX/PA considering: Further to Article X.3 (Core Text – Domestic Regulation), no Party may permit }{AU, CA, EU, JP, US propose Aan application for review {CA/EU oppose: shall not} CA/EU propose: to} constitute grounds for non-compliance with the determination or decision of the {regulatory authority} {telecommunications regulatory~~

~~body or other competent authority} unless the relevant ~~{KR/US propose~~CR/HK considering: reviewing} authority stays such determination or decision.]~~

~~2. ~~[JP/US propose; KR considering : Each Party shall ensure that a juridical person of another Party has timely recourse to an impartial and independent authority of the Party to resolve disputes regarding the Party’s measures relating to matters set out in [this Annex/Articles to be determined]. Such authority may be a judicial, quasi-judicial or administrative authority, as provided in the domestic law of the Party.]~~~~

~~[Appeal and] Review⁴¹~~

~~32. ~~[AU/CA/CL/CO/CH/TW/EU/HK/IL/IS/JP/KR/LI/MU/MX/PA/PE/PK/NO/NZ/US propose; /IL/TR considering: Each Party shall ensure that [a services supplier] [US propose: a juridical person] whose [JP/HK/KR/NZ/PE/TR/US propose: legally protected] interests are adversely affected by a determination or decision of the Party’s telecommunications regulatory body [CA considering: or other competent authority] may [PK/MU propose; US oppose: appeal or] obtain review of the determination or decision by an impartial and independent [CO/JP/HK/KR/US propose: authority. Such authority may be a] judicial, quasi-judicial or administrative authority, [as] [AU/CA/CO/HK/JP/PE/TR propose: to the extent] provided [AU/CA/CO/HK/JP/PE/TR propose: for] in the domestic law of the Party.[JP/US propose/CA considering:⁴²][CA/US oppose: Written reasons for the determination or decision of the judicial, quasi-judicial or administrative authority shall be given.]~~~~

~~Each Party shall ensure that [such] a determination or decision [; US propose: of the Party’s telecommunications regulatory body], subject to appeal or [PK/MU oppose: further] review, is implemented by the telecommunications regulatory body.~~

~~[PE propose; PK considering: Where an appeal body is not judicial in character, its decisions may also be subject to review by an impartial and independent judicial authority.]~~

~~43. ~~[AU/CA/CO/CH/TW/EU/IL/IS/JP/KR/LI/MU/PK/PA/NO/NZ propose; IL/MX/PE/TR considering: An application for judicial review [PK/MU propose: or appeal] shall not constitute grounds for non-compliance with the determination or decision of the regulatory authority unless the relevant judicial authority stays such determination or decision.]~~~~

~~[JP/NZ/US propose alt.; HK considering: No party may permit an application for review to constitute grounds for noncompliance with the determination or decision of the telecommunications regulatory body or other competent authority unless the relevant authority issues an order that [PA considering: stays] the determination or decision.]~~

⁴¹ ~~[NZ propose: For greater certainty, review need not include merits, “de novo” review, and may take the form of common law judicial review. The correction of final administrative actions may include a referral back to the body that took that action.]~~

⁴² ~~[US propose: To the extent it is provided for under domestic law, each Party shall ensure that a juridical person may also petition the telecommunication regulatory body or other competent authority to reconsider its determination or decision.]~~

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Article 9: Access to and Use of Public Telecommunications [CH propose: Transport Networks and] Services

1. Each Party shall ensure that any service supplier of another Party is accorded access to and use of public telecommunications [networks and] services, including leased circuits, offered in its territory or across its borders on reasonable and nondiscriminatory terms and conditions.
2. Each Party shall ensure that service suppliers of another Party are permitted:
 - (a) to purchase or lease and attach terminal or other equipment that interfaces with a public telecommunications network
 - (b) to provide services to individual or multiple end-users over leased or owned circuits;
 - (c) to connect ~~[EU propose; private]~~ leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another service supplier;
 - [AU/CA/CH/CL/TW/CO/CR/HK/IS/~~IL~~/LI/JP/KR/MU/MX/NZ/NO/PA/PE/PK/US propose; EU/TR considering; EU oppose: (d) to perform switching, signalling, processing, and conversion functions; and]
 - (e) to use operating protocols of the service supplier's choice [EU/IS/LI/ propose; AU/CA/CL/CO/TW/CR/HK/IL/JP/KR/MU/MX/NO/NZ/PA/PE/PK/CH/TR/US oppose: in the supply of any service, other than as necessary to ensure the availability of telecommunications transport networks and services to the public generally].
3. Each Party shall ensure that service suppliers of another Party may use public telecommunications [networks and] 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 data bases or otherwise stored in machine-readable form in the territory of any Party.
4. Notwithstanding paragraph 3 [CA propose, EU considering: and pursuant to Article X I-9 (general exceptions)], a Party may take such measures as are necessary to ensure the security and confidentiality of messages, [AU/CA/CL/TW/CO/CR/HK/IL/JP/KR/MU/MX/NZ/NO/PA/PE/PK/CH/US propose; EU/NO oppose: and protect the privacy of [end users of public telecommunications networks or services] [CL/HK/MU propose: individuals]] [CO/HK/MU/US propose; AU/PK considering: in relation to personal data] subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a 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:
 - (a) to 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) to protect the technical integrity of public telecommunications networks or services; [or]

[CR/MX/PK/CH/TR propose; AU/CA/CL/TW/CO/EU/HK/IL/IS/JP/KR/LI/MU/NZ/NO/PA/PE/US oppose:

(c) to ensure that service suppliers of any other Party do not supply services unless permitted pursuant to commitments in the Party's Schedule.]

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

[EU/IL/IS/LI/NO/PK/CH/TR propose; AU/CA/CL/CO/CR/TW/HK/JP/KR/MU/MX/NZ/PA/PE/US oppose: (a) restrictions on resale or shared use of such services;]

(b) a requirement to use specified technical interfaces, including interface protocols, for [inter-]connection with such networks and services;

(c) requirements, where necessary, for the inter-operability of such [networks and] services];

(d) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks;

[CR/EU/IL/IS/LI/MX/PK/CH/TR propose; AU/CA/CL/CO/HK/JP/KR/MU/NO/NZ/PA/PE/US/TW oppose: (e) restrictions on inter-connection of private leased or owned circuits with such networks or services or with circuits leased or owned by another service supplier;] or

(f) notification, registration and licensing [AU/CA/CL/HK/IL/JP/KR/MU/NZ/PA/PE/US/TW propose; PK considering; CO/ oppose: procedures which, if adopted or maintained [are consistent with the Annexes on transparency and Domestic regulation] is transparent and provides for the processing of applications filed thereunder in accordance with the Party's national law or regulation].

Article 10: Provisioning and Pricing of Leased Circuits Services

[CL/JP/KR/MU/MX/PE/TW/US propose; CO/EU/PK considering:

1. Each Party shall ensure that a major supplier in its territory provides service suppliers of another Party **[JP/MX propose: with]** leased circuits services that are public telecommunications services in a reasonable period of time on terms and conditions, and at rates, that are reasonable and non-discriminatory, and based on a generally available offer].
2. In carrying out paragraph 1 each Party shall provide its telecommunications regulatory body or other appropriate bodies the authority to require a major supplier in its territory to offer leased circuits services that are public telecommunications services to service suppliers of another Party at capacity-based, and cost-oriented prices.]

Article 11: Interconnection obligations relating to all suppliers^{13, 14}

Each Party shall:

- (a) provide its telecommunications regulatory body [**CH propose:** or other competent authority] with the authority [**CH: competence**] to require suppliers of public telecommunications services to provide, directly or indirectly within the same territory, interconnection at reasonable rates with suppliers of public telecommunications of another Party [**PA propose:**¹⁵]; and
- (b) ensure that [AU/CA/ **CH/CL/TW/CO/CR/HK/IL/IS/JP/KR/NZ/MU/MX/PA/PE/PK/TR/US propose; EU/LI oppose; ~~LI~~NO considering:** when its telecommunication regulatory body exercises the authority referred to in paragraph 1(a)] suppliers of public telecommunications services in its territory [AU/CA/CL/CO/CR/JP/KR/MU/MX/PK/PA/PE/TW/NZ/US propose; EU oppose: take reasonable steps to] protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained in the process of negotiating, and as a result of, interconnection agreements and only use such information for the purpose of providing these services.

¹³ [**CR/NZ propose:** For greater certainty the term interconnection as used in this chapter does not include access to unbundled network elements]

¹⁴ [**CH propose:** In Switzerland, only major suppliers are obliged to provide interconnection.]

¹⁵ [**AU/CO/JP/MU/PA/PE/PK/TW/US propose ; AU/CA/_JP/MX considering:** For greater certainty, a Party may comply with this obligation by providing its telecommunication regulatory body the authority to require cost oriented rates.]

Article 12: Resale

1. **[JP/KR/PE/US propose; CR oppose:** No Party may prohibit the resale of any public telecommunication services.]
2. **[CO/HK/JP/KR/MU/PA/PE/PK/TW propose; MX considering:** Where a Party requires a **[CR propose: major]** public telecommunications supplier to offer its public telecommunications service for resale, the Party shall ensure that such public telecommunications suppliers do not impose unreasonable or discriminatory conditions or limitations on the resale of its public telecommunications services.]
3. **[CA/CL/CO/HK/JP/KR/MU/PE/TW/US propose; CR oppose; MX/PA considering:** Each Party shall ensure that major suppliers in its territory:
 - (a) offer for resale, **[HK oppose: at reasonable rates]**, to suppliers of public telecommunications services of another Party, public telecommunications services that such major supplier provides at retail to end users; and
 - (b) do not impose unreasonable or discriminatory conditions or limitations on the resale of such services.]
4. **[CA/CO/JP/KR/MU/PE/US propose; CR oppose; CL/MX/PA considering:** Each Party may determine in accordance with its law and regulations which public telecommunications services must be offered for resale by major suppliers pursuant to paragraph 3, based on the need to promote competition or to benefit the long-term interests of end-users.]
5. **[CL/CO/JP/KR/MU/US/PE propose; CR oppose; MX/PA considering:** Where a Party does not require that a major supplier offer a specific public telecommunications service for resale, it shall nonetheless allow service suppliers to request that such service be offered for resale consistent with paragraph 3, without prejudice to the Party's decision on such a request.]

Article 13: Access to Essential Facilities / Unbundling of Network Elements

[CA/EU/IS/IL/LI/MU/MX/NO/PK/CH/TR propose: *Access to essential facilities*

1. Each Party shall ensure that a major supplier in its territory grants access to its essential facilities, which may include, inter alia, network elements, and associated facilities to suppliers of telecommunication services on reasonable and non-discriminatory terms and conditions.] **[CH/EU/NO/PK/TR propose:** , except when, following a market review, the regulatory authority determines that this is not necessary to achieve effective competition.]
2. **[CA/IL/MU/PK/CH propose:** Each party shall provide its regulatory body with the authority to determine those essential facilities required to be made available in its territory.]
3. **[CL/CO/JP/MU propose; KR/MX/PA/US considering:** *Unbundling of Network Elements*
Each Party shall provide its telecommunications regulatory body with the authority to require a major supplier in its territory to offer to public telecommunications service suppliers 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. Each Party may determine the network elements required to be made available in its territory, and the suppliers that may obtain those such elements, in accordance with its laws and regulations.]

[CA/EU/LI/IS/JP/MU/NO/ propose alt.; AU/CO/HK/IL/KR/TR considering; CL/PE/US oppose:

Access to Essential Facilities

1. Each Party shall ensure that a major supplier in its territory grants access to its essential facilities, which may include, *inter alia*, network elements and associated facilities, to suppliers of public telecommunications services on terms and conditions that are transparent, reasonable and non-discriminatory.
2. Each Party shall provide its telecommunications regulatory body with the authority to:
 - a. determine those essential facilities required to be made available in the major suppliers' territory. **[JP oppose:** Such determination shall be based on the objective of achieving effective competition and on other policy objectives by which the telecommunications regulatory body is bound by in accordance with domestic law].
 - b. require the major supplier to offer access on an unbundled basis to its network elements that are essential facilities.]

Article 14: Treatment of Major Suppliers

Each Party shall [EU/CH/HK/NO/TR oppose: ensure that] [EU/HK/NO/TR propose; IS/PK considering; US oppose: provide its telecommunications regulatory body with the authority to require that] any major supplier in its territory accords suppliers of public telecommunications services of another Party treatment no less favourable than such major supplier accords in like circumstances to its subsidiaries, [EU/NO/CH/CR/TR propose; IS considering: and] its affiliates [EU/JP/LI/NO/CH/CR/TR oppose :, or non-affiliated service suppliers] regarding:

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

Article 15: Competitive Safeguards

1. Each Party shall maintain appropriate measures for the purpose of preventing suppliers of [EU/IS/NO **oppose:** 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:
 - (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 [EU/IS/NO: **oppose;** AU/CA/CO/CL/CR/TWHK/IL/JP/KR/MX/MU/NZ/PA/PE/PK/TR//US **propose:** public] telecommunications services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services[CR propose:¹⁶][~~CL propose:¹⁷~~].

¹⁶ [CR propose, KR oppose: For greater certainty, [and in accordance with Article X (Disclosure of confidential information),] nothing in paragraph 2c) shall be construed to impede particular enterprises, public or private, from determining the information that it considers to be an industrial or trade secret, when its disclosure to third parties would prejudice legitimate commercial interests.]

¹⁷ [~~CL propose; EU oppose: For greater certainty the conduct described in subparagraph c has to have an actual anticompetitive effect on the market.~~]

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Article 16: Interconnection Obligations relating to Major Suppliers

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 another Party
 - (a) at any technically [CR propose; and economically] [CR propose alt.:¹⁸] 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 favourable 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.
2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of another Party the opportunity to interconnect their facilities and equipment with those of the major supplier through:
 - (a) a reference interconnection offer or another standard interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications services; or
 - (b) the terms and conditions of an interconnection agreement in effect.

In addition, each Party shall ensure that suppliers of public telecommunications services of another Party have the opportunity to interconnect their facilities and equipment with those of the major supplier through negotiation of a new interconnection agreement.
3. Each Party shall provide a means for suppliers of another Party to obtain the rates, terms, and conditions necessary for interconnection offered by a major supplier. Such means include, at a minimum, ensuring:
 - (a) the public availability of interconnection agreements in effect between a major

¹⁸ [CR: For Costa Rica, a major supplier in its territory shall provide interconnection for the facilities and equipment of suppliers of public telecommunications services of another Party at any technically and economically feasible point in the major supplier's network]

supplier in its territory and other suppliers of public telecommunications services in its territory; or

(b) the public availability of rates, terms, and conditions for interconnection with a major supplier set by the telecommunications regulatory body [or other competent body];or]

(c) the public availability of a reference interconnection offer. [AU/-CA/CO/JP/KR/ MU/NZ propose; CR/EU/LI/MX/NO/TW/USMU considering: or another standard interconnection offer as provided for under paragraph 2(a)]

~~[AU/KR/MU/NZ propose: Services for which such terms and conditions are made publicly available may not include all interconnection related services offered by a major supplier, as determined by Party under its laws and regulations.]~~

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

[EU oppose: Article 17: Undersea Cables and Landing Facilities and Services

1. **[CO/MU/US propose; PK considering:** 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 another Party reasonable and non-discriminatory treatment with respect to access¹⁹ to that submarine cable system, including landing facilities.]
 2. **[CO/MU/US propose; PK considering:** 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: **[KR propose:** ²⁰
 - (a) permits suppliers of public telecommunications services of another 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 another 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.²¹]
- ~~3. **[US propose: PLACEHOLDER for undersea cable access provisions related to protecting the rights to lay, maintain and repair submarine cables]**~~

[MU/US propose alt.:

1. Each Party shall ensure that where a major supplier of international public telecommunications services in the territory of a Party controls international submarine cable landing stations for which there are no economically or technically feasible

¹⁹ **[MU/US propose:** With respect to a supplier of the other Party that does not own facilities in the territory of the Party in which the cable landing system is located, that Party may comply with paragraph a by ensuring access to the submarine cable system through facilities that the supplier of another Party leases from a licensed supplier of public telecommunications services in the territory of the Party.]

²⁰ **[KR propose:** Paragraph 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.]

²¹ **[MU/US propose:** Notwithstanding paragraph (b), 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.]

alternatives, the Party shall ensure that the major supplier provides access to those landing stations, consistent with the provisions of Article 10 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers) and Article 16 (Interconnection with Major Suppliers), to public telecommunications suppliers of another Party.

2. Each Party shall ensure that a major supplier covered by paragraph 1 provides to public telecommunications suppliers of another Party a physical or virtual co-location arrangement in the premises of the major supplier for equipment necessary to access such landing stations. Such co-location arrangements must be based on a generally available offer, reasonable and non-discriminatory terms and conditions, and cost-oriented rates. Each Party may determine, in accordance with its law and regulations, which premises a major supplier must make available for co-location.]

Article 18: Universal Service

Each Party has the right to define the kind of universal service obligation it wishes to adopt or maintain. 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 19: 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.

Spectrum

2. Each Party shall make publicly available the current state of frequency bands allocated [CO/EU/HK/PE **oppose**; PK **considering**: and assigned to specific suppliers²²] but retains the right not to provide detailed identification of frequencies allocated or assigned for specific government uses.
3. When making a spectrum allocation for commercial telecommunication services, each Party shall endeavour to rely on an open and transparent process that considers the overall public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services. To this end, each Party shall have the authority to use mechanisms such as auctions, where appropriate to assign spectrum for commercial use.
4. For greater certainty, A Party's measures allocating and assigning spectrum and managing frequencies shall not be considered inconsistent with Article I-3 (Market Access). Accordingly, each Party retains the right to establish and apply its spectrum and frequency management policies that may have the effect of limiting the number of suppliers of a public telecommunications service [CR **considering**: provided it does so in a manner consistent with other provisions of this Agreement]. This includes the ability to allocate frequency bands, taking into account present and future needs, and spectrum availability.

Numbers

6. Each Party shall ensure suppliers of public telecommunications services of another Party established in its territory are afforded access to telephone numbers on a non-discriminatory basis.
7. Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability, without impairment to quality and reliability [AU/CA/CL/TW/CR/EU/IS/HK/IL/JP/KR/LI/MU/MX/NZ/NO/TR/US **propose**: or convenience], ~~[CR **oppose**: on a timely basis, and on reasonable and non-discriminatory terms and conditions.]~~
8. [AU/CL/TW/CO/EU/HK/IS/LI/MU/MX/NZ/PK/PA **propose**; CA/CR/KR/TR/US **considering**: Notwithstanding the preceding sentence, for an [original] Party that, at the time this Agreement is concluded, does not apply number portability to any services or to a particular category of services, this obligation shall apply as of the time that such party determines, [CO/LI/PK **oppose**: based on periodic review], that it is economically feasible to apply number portability to all services or to a particular category of services.]

²² [PE **propose**: For Peru, the commitment to make publicly available assigned bands shall apply only to bands used to provide access to end-users.]

Article 20: International Mobile Roaming

1. ~~{AU/CA/CH/CL/CO/CR/TW/EU/HK/IL/IS/KR/LI/JP/PA/PE/PK/MU/MX/NO/NZ/TR propose; PA/US considering}~~ The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Parties and enhance consumer welfare.†
2. ~~{AU/CA/CL/CO/TW/EU/HK/IL/IS/KR/LI/JP/MU/MX/NO/NZ/PA/PE/PK/CH/TR propose, PA/US considering}~~ Parties may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:
 - (a) ensuring that information regarding retail rates is easily accessible to consumers; and
 - (b) minimising impediments to the use of technological alternatives to roaming, whereby consumers visiting the territory of a Party from the territories of other Parties can access telecommunications services using the device of their choice.‡
3. [AU/CL/CO/TW/EU/IS/IL/JP/MU/NO/CH propose, MX/PE/TR/US considering:- Each Party shall ensure that [US propose: information on] retail rates for international mobile roaming services, for voice, data and text messages, are made [AU/CL/CO/US propose, PE considering: alt.: publicly available.] [available to consumers of telecommunications service suppliers established in its territory.]
4. [AU/CL/CO/JP/NO/NZ/PE propose; MX/US considering; TR oppose: The Parties recognise that a Party [AU/CL/MX/NZ/US propose:, where it has the authority to do so,] may choose to adopt or maintain measures affecting rates or conditions, for wholesale international roaming services with a view to ensuring such rates or conditions are reasonable. Where a Party considers it appropriate, it may cooperate on and implement mechanisms with other Parties to facilitate the implementation of such measures, including by entering into arrangements with such Parties.]
5. [AU/CO/CL/JP/MU/NZ propose, TR oppose: If a Party
 - (a) chooses to regulate rates or conditions for wholesale international mobile roaming services, and
 - (b) has entered into an arrangement with another Party to reciprocally regulate rates or conditions for wholesale international mobile roaming services for suppliers of the two Parties,it shall ensure that a supplier of public telecommunications services of that other Party has access to the regulated rates or conditions for wholesale international mobile roaming services for its customers roaming in the territory of the first Party.^{23]}

²³ [AU/CL/JP propose: For greater certainty, access under paragraph 5 to the rates or conditions regulated by one Party shall be available to a supplier of another Party only if such regulated rates or conditions are reasonably

6. [AU/CO/CL/JP/MU/NZ propose, TR oppose: A Party that ensures access to regulated rates or conditions for wholesale international mobile roaming services consistent with paragraph 5 shall be deemed to be in compliance with its obligations under XX.XX (e.g., non-discrimination obligations) with respect to international mobile roaming services.]
7. [AU/CL/JP/MU/NZ propose, TR oppose: For greater certainty:
- (a) nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.
 - (b) no Party may, solely on the basis of any obligations owed to it by the regulating Party under a most-favoured-nation provision, or under a telecommunications-specific non-discrimination provision, in any existing international trade agreement, seek or obtain for its suppliers access to regulated rates or conditions for wholesale international mobile roaming services that is provided under this Article.]

Article 21: International Standards and Organisations

The Parties recognize the importance of international standards for global compatibility and interoperability of telecommunications networks or services and undertake to promote those standards through the work of relevant international bodies including the International Telecommunication Union and the International Organization for Standardization.

comparable to those reciprocally regulated under the arrangement referred to in sub-paragraph (b). The telecommunications regulatory body of the first Party shall, in the case of a disagreement, determine whether the rates or conditions are reasonably comparable.]

Article 22: International Cooperation

Without prejudice to CH position, Parties agreed to delete this article and consider proposals for Article 12 in the eCommerce Annex

1. **[PK propose:** Each Party shall endeavour to cooperate with the other Parties to increase the level of digital literacy globally and reduce the “digital divide.”]
2. **[~~CO~~CH/PK propose:** Parties will ~~{CO propose: to the extent possible}~~ exchange information in the area of telecommunications Services. That may include information on, inter alia:
 - (a) technological developments and research in the area of telecommunications services;
 - (b) commercial and technical aspects of the supply of telecommunications Services through all modes of supply;
 - (c) available possibilities for the exchange of telecom-related technology; and
 - (d) applicable laws and regulations, legislative processes and recent legislative developments; applicable technical standards.]
3. **[~~CO~~CH/PK propose:** Parties will exchange views on developments related to telecommunications Services at the international level.]

[CH/MU/PK propose: *Promotion*

4. Parties affirm their intention to:
 - (a) [promote these provisions in order to contribute to the expansion and spread of telecommunications Services];
 - (b) [work together and cooperate in international fora to increase the level of digital literacy and to reduce the global digital divide];
 - (c) [cooperate with third countries with a view to enhancing national regulatory capacity and to contribute to the spread of telecommunications Services, which are powerful tools for promoting economic development.]

[~~CO~~CH propose alt.:

Parties recognize the importance of exchanging information relating to the implementation of this Annex, and other aspects related to Telecommunications Services in order to promote the expansion and liberalization of Trade in this sector. To this end, the Parties will endeavour to answer arising queries presented through the Contact Points (as established in Transparency Art. 6.a.) related to issues concerning the development of the sector, which may include:

- (a) technological developments and research in the area of telecommunications services;
- (b) commercial and technical aspects of the supply of telecommunications services through all modes of supply;

- (c) applicable laws and regulations, legislative processes and recent legislative developments; applicable technical standards.]

Article 23: Definitions

For purposes of this Annex:

[CA/EU/MU/NO propose: **associated facilities** means those services and infrastructures associated with a telecommunications network and/or service which are necessary for the provision of services via that network and/or service, such as buildings (including entries and wiring), ducts and cabinets, masts and antennae;]

~~[CO/US propose: **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;]~~

~~[CO: It is Colombia's understanding that backhaul is not related to a specific technology like submarine cable. It is the portion of the network that links the core network, or backbone, and subnetworks at the "edge" of the hierarchical network.]~~

[JP/US propose: commercial mobile services means public telecommunication services supplied through mobile wireless means.]

[US propose: **co-location** means an arrangement whereby a requesting supplier of public telecommunication services obtains access to the premises owned or controlled by a major supplier for the purposes of interconnection or access to network elements either through (a) physical access to and control over space in such premises in order to install, maintain or repair equipment; or (b) an arrangement for virtual access that does not provide physical access but specifies equipment to be used in such premises and allows the major supplier to install, maintain and repair that equipment;]

[AU/CA/CL/CR/CO/EU/TW/HK/IS/IL/JP/KR/MU/MX/NZ/NO/PA/PE/PK/TR/US propose: **cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;]

~~[CO/MU/US propose: **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;]~~

[AU/CA/CL/CO/CR/TW/EU/IL/HK/JP/KR/MU/MX/NO/NZ/PA/PE/TR/US propose: **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;]

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;

[~~EU/IS/NO~~ propose, JP oppose: **granting access to essential facilities** means the making available of facilities and/or services to another supplier under defined conditions, for the purpose of providing telecommunications services. It may include the use of active or passive network elements, associated facilities, virtual network services, co-location or other forms of associated facilities sharing, the use of terminating segments of leased lines and the use of specified network facilities or elements, including the local loop, on an unbundled basis.]

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 [US propose; IL considering: For greater certainty, interconnection as used in this chapter does not include access to unbundled network elements]

[AU/CO/JP/MU/NO propose: **international mobile roaming service** means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public [EU propose: terrestrial] telecommunications services that enables end-users to use their home mobile handset or other device for voice, data or messaging services while outside the territory in which the end-user's home public telecommunications network is located]

intra-corporate communications means telecommunications through which a company communicates within the company or with or among its subsidiaries, branches and, subject to a Party's domestic laws and regulations, affiliates. For these purposes, "subsidiaries", "branches" and, where applicable, "affiliates" shall be as defined by each Party. "Intra-corporate communications" in this Annex excludes commercial or non-commercial services that are supplied to companies that are not related subsidiaries, branches or affiliates, or that are offered to customers or potential customers;

[CA/CO/JP/MU/PA/TR/US propose, EU/LI/NO considering: **leased circuits** means telecommunications facilities [EU considering: , including those of a virtual or non-physical nature.] between two or more designated points that are set aside for the dedicated use of, or availability to, a user] [US propose: and supplied by a supplier of fixed telecommunications services;][CO propose: to a particular consumer or other users of the customer's choosing.]

[AU/CA/CL/CO/CR/TW/EU/HK/IL/JP/LI/MU/MX/NO/NZ/PE/PK/KR/CH/TR/US propose; ~~CO/KR/MX/PA~~ considering: **license** means any authorization that a Party may [CH propose: grant to] [require of] a [CH propose: legal and natural] person, in accordance with its laws and regulations, in order for such person to offer a [CR propose: public] telecommunications service, including [~~CA/TW/CR/JP/KR/MX/US propose~~—but not limited to] concessions, permits, [~~KR/CH~~ oppose: registrations] [KR/CH/JP oppose: or notifications];]

major supplier means a supplier of [CA, US propose: 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;

[CO/PA propose: network [CO propose: element] means a facility or equipment used in supplying a public telecommunications service, including features, functions, and capabilities provided by means of such facility or equipment;]

~~[CO: It is Colombia's understanding that a network implies a set of elements linked, not a single element or equipment]~~

[AU/CA/CO/JP/KR/TR/US propose: non-discriminatory means treatment no less favourable than that accorded to any other user of like public telecommunications [CA propose: networks or] services in like circumstances, including with respect to timeliness;]

number portability means the ability of end-users of public telecommunications services to retain, [CR/MU/TR oppose: at the same location,] the same telephone numbers when switching between the ~~[CR oppose: same category of] [CR propose: similar]~~ suppliers of public telecommunications services;

[AU/CA/CO/MU/PA/CH/TR/US propose: public telecommunications network [CR propose: ²⁴] means telecommunications infrastructure used to provide public telecommunications services] [CA/PA/CH/MU/TR propose: which permits telecommunications between and among] [CO/US propose: between] [CA/CO/PA/CH/US propose: defined network termination points];

[EU/IS/MU/NO propose: telecommunications network means telecommunications infrastructure used to provide telecommunications services;]

[AU/CA/CL/CO/CR/HK/IL/JP/KR/MU/MX/NZ/PA/PE/CH/TR/US/TW propose; PK considering: telecommunications means the transmission and reception of signals by any electromagnetic means;]

[AU/CA/CH/CO/HK/JP/KR/MU/NZ/PA/PE/PK/TR/US propose, CL/CR//MX considering: public telecommunications service [CR propose: or telecommunications services available to the public] 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] [HK/JP/KR propose, PK considering: including access to internet] typically involving customer-supplied information between two or more defined points without any end-to-end change in the form or content of the customer's information] [CO/HK/PA/TW propose, PK considering: , but does not include information services];

AU/CO/KR propose; CA/EU/JP/considering; US opposing; would like Parties to reflect on the removal of [that a Party requires, explicitly or in effect, to be]

[AU/CA/CO/CH/EU/IS/JP/LI/NO propose, PK considering; PE/US oppose alt.: public

²⁴ [CR propose: For Costa Rica, a supplier of public telecommunications networks is an operator of public telecommunications networks, in accordance with its legislation.]

telecommunication service means any telecommunication service offered to the public generally, involving the [real time] transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information. Such services may include, inter alia, telephone, and data transmission];

[AU/CA/CL/CO/HK/JP/KR/MX/MU/NZ/PA/PE/TW/TR/US **propose**, PK **considering: reference interconnection offer** means an interconnection offer extended by a major supplier and filed with, or approved by, or determined by a telecommunications regulatory body 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, without having to engage in negotiations with the major supplier concerned;]

~~[AU/CA/CL/TW/CO/CR/EU/HK/IL/JP/KR/MU/MX/NZ/NO/PA/PE/PK/CH/TR/US **propose**; EU/IS/LI **considering: telecommunications regulatory body** means a body or bodies [PA **propose**: of a Party] responsible for the regulation of telecommunications [CR **propose**: according to domestic legislation;]~~

[EU/IS/LI/MU/NO/CH **propose: telecommunication services** means the transmission and reception of signals over telecommunication networks by any electromagnetic means. Those services exclude services providing, or exercising editorial control over, content transmitted using telecommunication networks and services;²⁵] and

user means a service consumer or a service supplier.

²⁵ [EU/CH **propose**: For greater certainty: services providing or exercising editorial control over content transmitted include inter alia radio and television services as defined by CPC 9613.]

Provisions to be reviewed in conjunction with the discussion on the EU proposal for guidelines on CRPs

[CO/EU/IS/LI/MU/NO/CH propose; CA/CR/HK/IL/KR/PE/PK oppose: Foreign Ownership

2. ~~[CO propose: Each Party shall endeavour to]~~ **[CH propose: Parties should]** ~~[CO/CH propose: allow]~~ ~~[CO propose: full]~~ **[CO/CH propose: foreign participation in [CO/CH propose: their]** telecommunications services sectors, through establishment **[CO oppose: or other means]** ~~[CO/CH propose: without limitations of foreign capital participation].~~

3. **[EU/IS/MU/NO propose; AU/JP/KR/NZ/US oppose: No Party shall impose joint venture requirements or limit the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment as a condition to supply telecommunication services through the establishment of a commercial presence.]**

[EU/IS/JP/NO propose; CR/IL/KR/NZ/PA/PE/TR oppose: Cross-border trade in telecommunication services

4. No Party shall impose limitations, in the meaning of Article I-3 (Market Access) and I-4 (National Treatment), on the ability of services providers to supply telecommunication services on a cross-border basis²⁶.]

5. **[AU/CA/CL/CR/HK/IL/KR/MU/MX/NZ/PA/PE/PK/TR oppose: [IS/ NO/CH propose: and shall not require]** **[EU/TW propose: shall endeavour not to require]** **[CH propose: commercial presence for the supply of such services].]**

6. **[CA/AU/CO/CR/HK/MU/NZ/PA/PE oppose: [CH/EU/IS/LI/MX/NO propose: No Party shall impose or maintain any limitations on the number of licenses except]** **[EU/IS/LI/MUNO/CH/ propose: for the purpose of [EU/IS/LI/NO oppose: addressing a limited set of specified regulatory issues, [such as]] the assignment of frequencies]** **[EU/IS/LI/NO/CH/ propose: and other scarce resources].]**

²⁶ **[JP propose: As described in Article I – 1; 2 (a, b) (Mode 1 and 2)]**

IPE/US propose: Appendix X- Rural Telephone Suppliers

Peru

1. With respect to Peru:

- (a) a rural operator may not be considered a major supplier;
- (b) Article 19 (Allocation and Use of Scarce Resources – Numbers) shall not apply to rural operators; and
- (c) Article 10 (Provisioning and Pricing of Leased Circuits Services) and Article 13 (Access to Essential Facilities/ Unbundling of Network Elements) shall not apply to the facilities deployed by major suppliers in rural areas.

2. For purposes of this Annex, for Peru:

- (a) rural area means a population center:
 - (i) that is not included within urban areas, with a population of less than 3,000 inhabitants, a low population density and a lack of basic services; or
 - (ii) with a teledensity rate of less than two fixed lines per 100 inhabitants; and
- (b) rural operator means a rural telephone company that has at least 80 percent of its total fixed subscriber lines in operation in rural areas.

United States

The United States may exempt rural local exchange carriers and rural telephone companies, as defined, respectively, in sections 251(f)(2) and 3(37) of the Communications Act of 1934, as amended, (47 U.S.C. Section 251(f)(2) and Section 153(44)), from the obligations contained in Article [] (Number Portability), Article [] (Resale), Article [] (Unbundling), and Article [] (Interconnection with Major Suppliers).]

[US propose: Appendix B

Local Number Portability

Article 19 (Scarce Resources), paragraph 7:

(a) shall not apply in Liechtenstein and Mauritius until such time as each respective Party determines, pursuant to periodic review, that it is economically feasible to implement number portability; and

(b) shall apply only to commercial mobile services in Colombia, Hong Kong, Japan and Pakistan until such time as each respective Party determines, pursuant to periodic review, that it is economically feasible to apply number portability to fixed services.]