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March 24, 2006

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Request for Comments Concerning Proposed Free Trade Agreement With Republic of Korea.

Dear Ms. Blue:

AT&T Inc., on behalf of its affiliates ("AT&T"), submits these comments in response to the Federal Register Notice dated February 9, 2006 concerning the initiation of negotiations with the Republic of Korea on a free trade agreement ("FTA") and requesting comment to assist the Office of the U.S. Trade Representative in amplifying and clarifying negotiating objectives and to provide advice on how specific goods and services should be treated under the proposed agreement.¹

AT&T, through its affiliates, serves millions of customers around the globe, including residential, small-business, wholesale, enterprise, global and government customers, and delivers an unsurpassed portfolio of traditional and IP-based voice, broadband Internet, data transport, wireless and video services. AT&T is the largest U.S. provider of international, long distance, local voice and broadband DSL services, and provides services to virtually every country and territory in the world.

AT&T strongly supports USTR's important work to open foreign telecommunications markets through FTAs and welcomes the initiation of negotiations on the proposed FTA with Korea, which is a very important market for U.S. telecommunications carriers. The proposed FTA provides the opportunity to encourage increased investment, trade and competition in telecommunications and other electronic communications services in Korea that will benefit consumers and suppliers in both countries.

In response to the request for comments on "[e]xisting barriers to trade in services between the United States and Korea that should be addressed in the negotiations," 71 Fed. Reg. at 6821, AT&T wishes to highlight the major barrier to trade and investment in

¹ Office of the U.S. Trade Representative, *Request for Comments and Notice of Public Hearing Concerning Proposed Free Trade Agreement with Republic of Korea*, 71 Fed. Reg. 6820 (2006).

telecommunications services in Korea that is provided by Korea's limitation on foreign investment in facilities-based telecommunications services providers.

Specifically, Korea requires that "no more than 49% of the aggregate voting shares" in facilities-based telecommunications services licensees are held by foreign governments, foreign persons, or juridical persons in which 50 percent or more of the voting shares are owned by foreign governments or foreign persons (or in which there is 15 percent or more such ownership if the largest shareholder is a foreign government or foreign person).² Further, Korea's Ministry of Information and Communications has recently indicated that this restriction on foreign ownership should be maintained.³

Foreign ownership restrictions force U.S. telecommunications service suppliers to take local partners in order to establish commercial presence in foreign markets. By their very nature, these restrictions greatly impede the ability of U.S. suppliers to enter foreign markets and provide high quality end-to-end telecommunications service. By requiring U.S. suppliers to enter into non-market-oriented partnerships, these restrictions cause significant strategic or financial inefficiencies and are a major deterrent to market entry. For example, partners new to the telecom sector may lack relevant operational expertise, and telecom providers in the foreign market may be more focused on protecting their existing business than on promoting the success of a new venture. Restricting foreign ownership to a minority stake increases these potential problems by denying the U.S. supplier operational control of the joint enterprise. For example, a foreign controlling partner may not be committed to full implementation of the service portfolio, or may manage the network in ways that do not meet customers' service level expectations.

Facilities-based authorizations allow U.S. carriers to provide end-to-end services at a lower cost and with greater control over service quality and technology than where they are required to operate on a resale basis. However, as described above, foreign ownership restrictions on facilities-based authorizations effectively deter many U.S. carriers from seeking facilities-based authorizations, and greatly limit the utility of such authorizations by requiring potentially inefficient joint venture arrangements with foreign partners. Without facilities-based authorizations, U.S. carriers are generally prohibited from owning and operating facilities in foreign markets, including the end of undersea submarine cable capacity landing in foreign countries. Similarly, in Korea, U.S. carriers require facilities-based authorizations – and thus joint venture arrangements with foreign partners – to obtain the full potential benefits of their ownership interests in submarine cables landing in Korea.

² See WTO, Fourth Protocol to the General Agreement on Trade in Services, Republic of Korea, Schedule of Specific Commitments, Apr. 11, 1997, at 2-3.

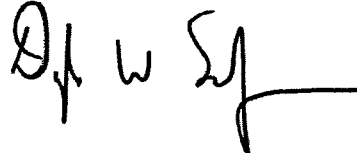
³ Ministry of Information and Communications, Response to the National Assembly Questionnaire 249, September 23, 2005.

Foreign ownership restrictions not only are a significant impediment to effective market entry by U.S. suppliers but also harm long-term development interests and consumer welfare in countries that maintain these limitations. Despite the short-term justification of protecting domestic investors, delaying open competition through foreign ownership restrictions results in service quality and prices that compare unfavorably to standards in fully liberalized countries. In contrast, other key economies in the Asia-Pacific region such as Singapore, Hong Kong, Australia, New Zealand and Japan, have no foreign investment restrictions for facility-based licenses. These economies have long recognized that market participation by a global field of foreign investors, board members and managers forces all suppliers to be more efficient, innovative and responsive. This ensures that the best-available technology, services and practices are integrated into competitive customer offerings. The proposed FTA provides an important opportunity for Korea to benefit from the example of these other economies, and in turn, to expand its telecommunications-dependent economy.

For these reasons, Korea should allow full facilities-based competition by removing the foreign ownership restrictions that prevent U.S. carriers and other non-Korean investors from owning more than 49 percent interests in facilities-based licenses and the removal of these foreign ownership restrictions should be a major negotiating objective for the Korea FTA.

AT&T would be pleased to provide any further information that would be helpful to the Committee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. W. Schoenberger', with a long horizontal flourish extending to the right.

Douglas Schoenberger