

TRANS-PACIFIC PARTNERSHIP AGREEMENT

CHAPTER SUMMARY: TELECOMMUNICATIONS

Telecommunications is a significant means for services delivery and a critical enabler of international trade, including for SMEs. The obligations in this Chapter apply to government measures affecting trade in telecommunications services. It seeks to ensure that Australian telecommunications companies are treated equally in TPP markets. It contains a comprehensive suite of rules to ensure incumbent telecommunication companies with a dominant market position provide foreign telecommunications suppliers with access to services and key infrastructure on reasonable terms and conditions. TPP Parties have agreed to enhanced transparency in telecommunications regulation. These rules will provide existing suppliers with greater certainty about their operating conditions and space for new players to enter the market.

The chapter responds to the commercial realities and challenges of the evolving telecommunications market, including broadband networks. It introduces new rules to address the high costs of international mobile roaming. TPP Parties have agreed to establish a Committee on Telecommunications to ensure the telecommunications chapter keeps pace with rapid changes in technology.

MORE INFORMATION ON THE CHAPTER

Access to and use of telecommunication services

Reflecting the importance of telecommunications to all service suppliers, TPP Parties affirm that suppliers from another TPP Party will have access to and use of public telecommunication services on a reasonable and non-discriminatory basis.

Treatment of foreign telecommunication suppliers

The TPP establishes a set of rules for suppliers of public telecommunications services who have the ability to influence the market as a result of their control over essential facilities, such as poles or wires, or have a dominant position in the market. These are known as 'major suppliers'. This includes a prohibition on engaging in anti-competitive practices.

A major supplier is required to offer telecommunications services to foreign suppliers on reasonable and non-discriminatory conditions and at cost-oriented rates. These requirements apply to:

- services which a TPP Party offers for resale;
- network elements which a TPP Party offers on an unbundled basis;
- leased circuit services;
- co-location of equipment;



- access to essential facilities and infrastructure, including but not limited to poles, ducts, conduits and rights-of-way; and
- international submarine cable landing stations.

Major suppliers must provide interconnection (the ability for service suppliers to connect with each other) for the facilities and equipment of foreign telecommunications suppliers, including transparency requirements. A foreign supplier of public telecommunications may request a regulatory body to review the terms and conditions of interconnection provided by a major supplier in the event of a dispute. Interconnection requirements also apply to non-major suppliers of public telecommunications services.

Regulatory commitments, including transparency

Regulatory decisions and procedures are to be impartially applied to all market participants. TPP Parties have agreed that they will not treat a Government-owned telecommunications supplier more favourably than a foreign supplier.

In complying with their obligations under the telecommunications chapter, TPP Parties may engage in direct regulation, rely on market forces or use any other appropriate means that would benefit the long term interests of end users.

Information on licensing procedures will be publicly available and an applicant may request reasons for denial or revocation of a license. TPP Parties have also agreed to the transparent and non-discriminatory administration of policies, including:

- those relating to scarce telecommunications resources (including frequencies, numbers, and rights-of-way)
- universal service obligations (in Australia, for example, Universal Service Obligation ensures that standard telephone services are reasonably accessible to Australians on an equitable basis).

Public telecommunication service suppliers will have the ability to choose the most appropriate technologies to supply their services, subject to any requirements necessary to address public policy objectives.

In addition to transparency obligations elsewhere in the TPP, TPP Parties have agreed to develop new telecommunications regulations in a transparent manner.

Enforcement and dispute resolution

In addition to provisions in the Transparency Chapter, TPP Parties will ensure that their competent authorities are able to enforce specified obligations in the telecommunications chapter, including the ability to impose effective sanctions.

Businesses have **recourse** to a telecommunications regulatory body or other relevant body to resolve disputes regarding certain obligations in the Chapter. A regulator who decides not to take action to resolve a dispute will be required to provide a written explanation. The chapter also provides for an appeal to **reconsider** a regulator's decision in certain circumstances. As reconsideration is not part of Australia's regulatory regime, this will not apply to Australia.

International mobile roaming

Recognising the impact of high international mobile roaming charges on international trade and consumer welfare, TPP Parties have agreed to work cooperatively to promote reasonable rates for international mobile roaming services.

TPP Parties may choose to steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:

- ensuring that information on retail rates is easily available, and
- minimising impediments to consumers using their own mobile device to access alternatives to roaming when travelling in another TPP Party.

TPP Parties will share information about the retail rates for international mobile roaming services offered their own consumers when visiting other TPP markets.

The TPP provides TPP Parties with the ability to enter into arrangements with each other on the rates and conditions for wholesale international mobile roaming services in a manner consistent with other international trade obligations. The intention of these arrangements is to facilitate the implementation of measures relating to wholesale international roaming services which a Party has decided to adopt in its own market.

International standards and organisations

TPP Parties recognise the importance of international telecommunications standards, and have undertaken to promote these standards through the work of relevant international organisations.

Committee on telecommunications

A Committee on Telecommunications will review and monitor the implementation of the telecommunications chapter, including by taking into account ongoing technological and regulatory developments in telecommunications.