Korea's Experience of Telecom Sector Liberalisation

Submitted by: Korea
AGENDA

1. Benefits of FTA
2. Telecom Market Liberalization in Korea
3. Current Status of Korea’s FTAs
4. Introduction of Liberalization and Competition
5. FTA Telecom Provisions
For Korea, facing regional economic blocs, there was a need to find new market access opportunities. Korea was facing sluggish growth and needed a new growth driver.

Benefits of FTA

- External Factors
  - Seek improvements in market access
  - Promote economic reforms
  - Accelerate trade liberalization
  - Foster strategic linkages
  - Be ahead of the domino effect
- Internal Factors
  - APEC members see free trade as a way to achieve the Bogor Goals

Benefits of Free Trade for Telecom Sector

- Improved Service Quality and Price
  - Price of mobile svc went down the last 10 years from 1997~2009 (based on SKT)
    - basic rate: W21,000 → 12,000 (W28/10 sec → 20/10 sec, 1.8/1sec since Apr 2010)
- Development of Telecom Industry
  - Telecom equipment industry
  - Leading research in CDMA, DMB, WiBro technology
- Market Expansion, Diversification of svc
  - Growth of subscribers
  - Growth of mobile market
  - New services introduced
  - Improvements in service quality

Greater competition from market liberalization
Greater efficiency due to growth of information economy
Economic growth spurred by development of ICT sector
Telecom Market Liberalization in Korea

**WTO NGBT (1997)**

**Liberalization**

**New Trade Environment**

- Launch of WTO
- Importance of service trade
- Telecom as key facilitator of service industry
- Importance of knowledge, information in the service-based economy
- Telecom as transmitter of knowledge and information

**Korean Response**

- Need for integration with world economy
- Market restructuring of 1990 & need to introduce greater competition
- React positively to the information-based World economy

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Current Status of Korea’s FTAs

- **FTA in effect** (5 FTAs)
- **Concluded FTA** (2 FTAs)
- **FTAs under negotiation** (8 FTAs)
- **FTAs under consideration** (7 FTAs)
Current Status of Korea’s FTAs

<table>
<thead>
<tr>
<th>Country</th>
<th>Under Consideration</th>
<th>Under Negotiation</th>
<th>FTA Signed</th>
<th>Entered into Force</th>
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<tbody>
<tr>
<td>China</td>
<td>2003.3-2010</td>
<td></td>
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<tr>
<td>China-Japan</td>
<td>2010.05</td>
<td></td>
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<tr>
<td>MERCOSUR</td>
<td>2005.06-2007.10</td>
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<tr>
<td>Russia</td>
<td>2007.10</td>
<td></td>
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<tr>
<td>Israel</td>
<td>2009.08</td>
<td></td>
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<tr>
<td>SACU</td>
<td>2008.12</td>
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<td>Mexico</td>
<td>2003.05-2005.11</td>
<td>2006.02-2008.06</td>
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<td>Australia</td>
<td>2006.12-2009.02</td>
<td>2009.05-2010.05</td>
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<td>New Zealand</td>
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<td>2009.06-2010.05</td>
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<td>Peru</td>
<td>2005.11-2009.01</td>
<td>2009.03-2010.01</td>
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<tr>
<td>Colombia</td>
<td>2008.07-2009.08</td>
<td>2009.12-2010.06</td>
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<td>Turkey</td>
<td>2008.06-2009.05</td>
<td>2010.04</td>
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<td>EU</td>
<td>2003.08-2007.05</td>
<td>2007.05-2009.03</td>
<td>2009.10</td>
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<td>ASEAN</td>
<td>2003.08-2004.09</td>
<td>2005.02-2006.04(Goods), 2007.10(Services), 2009.04(Investments)</td>
<td>2006.06(Goods), 2007.11(Services), 2009.06(Investments)</td>
<td>2007.06(Goods), 2009.05(Services), 2009.09(Investments)</td>
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<tr>
<td>India</td>
<td>2003.12-2006.02</td>
<td>2006.03-2008.11</td>
<td>2009.08</td>
<td>2010.01</td>
</tr>
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Beginning Liberalization: WTO Negotiations

<table>
<thead>
<tr>
<th>Limitation on Aggregate Foreign Ownership</th>
<th>Before 1998</th>
<th>WTO Concession Schedule (1997. 2.)</th>
<th>Currently</th>
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<tbody>
<tr>
<td>KT</td>
<td>Prohibited</td>
<td>20% from '98</td>
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<tr>
<td>Other Carriers</td>
<td></td>
<td>33% from '01</td>
<td>49% since '01. 1.</td>
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<tr>
<td>Wired:Prohibited Wireless:33%</td>
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<td>33% from '98</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>49% from '01</td>
<td>49% since '99. 7.</td>
</tr>
<tr>
<td>Limitation on Individual Ownership</td>
<td></td>
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<tr>
<td>KT</td>
<td></td>
<td>15% from '98</td>
<td>15% since '99</td>
</tr>
<tr>
<td>Other Carriers</td>
<td></td>
<td>Wired:10% Wireless:33%</td>
<td>No Limitation</td>
</tr>
<tr>
<td>Wired:Prohibited</td>
<td></td>
<td>15% from '98</td>
<td></td>
</tr>
<tr>
<td>Largest Foreign Shareholder</td>
<td></td>
<td>Wired:10% Wireless:33%</td>
<td>No Limitation</td>
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<tr>
<td>KT</td>
<td>Prohibited</td>
<td>Permitted from '99</td>
<td></td>
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<tr>
<td>Other Carriers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Voice Resale</td>
<td>Prohibited</td>
<td>49% from '99 100% from '01</td>
<td>100% since '01</td>
</tr>
<tr>
<td>Resale</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>No limits</td>
<td>100% from '98</td>
<td>100% since '98</td>
</tr>
</tbody>
</table>
Facilities-based Telecom Value-added Telecom Facilities-based (authorization)
Special Telecom (registration)
Value-added Telecom (notification)

Introducing Liberalization & Competition

National Monopoly
KT monopoly
Gov’t

Public Telecom Service (designation)
Facilities-based Telecom - Wireline (designation) - Wireless (authorization)
Value-added Telecom (registration)
Value-added Telecom (notification)

Facilities-based Telecom (authorization)
Value-added Telecom (notification)

ENTRY DEREGULATION

Recent Reform

Telecommunication Services Classification

Basic Telecom Service
- positive definition
- license for each service
Local, long distance, international voice service
Telex/ telegraph
Provision of telecom facilities
Service using allocated spectrum
Internet access service
VOIP
Other services using telecom facilities

Value-added Telecom Svc
Services other than Basic Telecom Services
VOIP
Value-added Telecom svc
Services other than Basic Telecom Services

TBA Revised (Jan 2010)

-Abolition of positive classification
-Definition of a Telecom Service
- General License Regime
- Abolition of positive classification
- Definition of a Telecom Service
- General License Regime

Allocation of spectrum separated from licensing process
- governed by Spectrum Act
History of Telecom Market Competition

- **1981**: Establishment of Korea Telecom Authority
- **1990**: Competition introduced in value-added services
- **1992**: Competition introduced in paging services (10 new operators)
- **1994**: Second cellular license issued (Shinsegi Telecom)
- **1995**: Competition introduced in long-distance market (Dacom)
- **1998**: Resale based competition introduced

### 1998 Licenses
- 27 new licenses granted
  - 3 PCS, 6 TRS, 11 CT-2, 2 dedicated line, 1 paging,
  - 3rd international operator (Onse), and 3 wireless data transmission
- 10 new licenses granted: 1 local operator (Hanaro),
  1 long-distance (Onse), 6 TRS, 1 paging

- **1999**: 27 new licenses granted
- **2000**: Cable Operators (SO, RO, NO) were allowed to offer public telecommunications services
- **2003**: Internet Access Service reclassified as facilities-based public telecommunications service
- **2004**: VoIP reclassified as facilities-based public telecommunications service
- **2006**: About 150 facilities-based public telecommunications service providers in Korea

### Plethora of Market Entry

<table>
<thead>
<tr>
<th>Service</th>
<th>Operating area</th>
<th># of operators</th>
<th>Major Operators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local</td>
<td>national</td>
<td>3</td>
<td>KT, HTI, Dacom</td>
</tr>
<tr>
<td>Long Distance</td>
<td>national</td>
<td>5</td>
<td>KT, HTI, Dacom, Onse, SKTlink</td>
</tr>
<tr>
<td>International</td>
<td>national</td>
<td>5</td>
<td>KT, HTI, Dacom, Onse, SKTlink</td>
</tr>
<tr>
<td>ISP</td>
<td>national</td>
<td>8</td>
<td>KT, HTI, Lgpowercom etc</td>
</tr>
<tr>
<td></td>
<td>national</td>
<td>106</td>
<td>TBroad, C&amp;M etc</td>
</tr>
<tr>
<td>VoIP</td>
<td>national</td>
<td>9</td>
<td>KT, HTI, LGDacom etc</td>
</tr>
<tr>
<td>Mobile</td>
<td>national</td>
<td>3</td>
<td>SKT(cellular), KTF, LGT(PCS)</td>
</tr>
<tr>
<td>IMT-2000</td>
<td>national</td>
<td>2</td>
<td>SKT, KTF</td>
</tr>
<tr>
<td>WiBro</td>
<td>national</td>
<td>2</td>
<td>KT, SKT</td>
</tr>
</tbody>
</table>
Evolution of Market Structure

- Local
- Long Distance
- International
- Leased Line
- Broadband
- Mobile
- Resellers
- Value-added

Results at a Glance

- Fixed Telephony
- Mobile Telephony
- Broadband Internet
- Paging

No. of Subscribers in Telecom Market
FTA Telecom Provisions

ARTICLE 14.8: INTERCONNECTION

General Terms and Conditions (para 1)
Each Party shall ensure that a major supplier provides interconnection for the facilities and equipment of suppliers of PTS of the other Party (a) at any technically feasible point in the major supplier’s network; (b) under non-discriminatory terms, conditions, 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, and at cost-oriented rates; and (e) on request, at points in addition to the network termination points offered to the majority of users.

Options for Interconnecting with Major Suppliers (para 2)
Each Party shall ensure that a major supplier provides suppliers of PTS 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 RIO; or (ii) the terms and conditions of an interconnection agreement in effect.

Public Availability of Interconnection Offers and Agreements (para 3-6)
A major supplier may, the applicable procedures for interconnection negotiations with a major supplier, interconnection agreements in effect between a major supplier and other suppliers of PTS should be made publicly available. And major suppliers should file all interconnection agreements to which it is party with its telecommunications regulatory body.

What it means
- Obligations imposed on major supplier provide strong guarantee that new entrants would get fair market opportunity; market distortion is minimized; consumers benefit from competition

Legal Aspects
- Goes beyond Reference Paper obligations
- Strong anti-competitive principles enshrined; Korea’s TBA art.34, 34.4, 34.6, 36.3 etc ensure the major suppliers provide access to their network

FTA Telecom Provisions

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.

What it means
- Facilitates new market entrants that do not have telecom facilities
- Good for competition, promotes variety of new services

Legal Aspects
- Revised TBA allows for major suppliers to provide telecom services at resale
- Currently SKT designated as obligatory resale provider for 2G & 3G service
ARTICLE 14.9: PROVISIONING AND PRICING OF LEASED CIRCUITS SERVICES

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.

What it means
- Can obtain leased line on reasonable and nondiscriminatory terms
- Private telecom services (for business) can flourish

Legal Aspects
- TBA art 33.5 obligates major supplier to provide telecom facilities when requested
- Telecom Chapter has several provisions ensuring telcos to access major supplier's network

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 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.

What it means
- Can expect independent and impartial decisions from regulator
- Provides predictability and stability of regulatory environment

Legal Aspects
- Goes beyond obligations of Reference Paper (article 5)
- Since privatization of KT (2002), Korean govt does not have any shares in telcos
**FTA Telecom Provisions**

**ARTICLE 14.20: TRANSPARENCY**
Each Party shall ensure that:
1. Rulemakings, including the basis for such rulemakings, of its telecommunications regulatory body and tariffs filed with its telecommunications regulatory body are made publicly available;
2. Interested persons are provided with adequate advance public notice of, and reasonable opportunity to comment on, any rulemaking that its telecommunications regulatory body proposes;
3. To the extent practicable, all comments filed with the telecommunications regulatory body in the rulemaking are made publicly available;
4. Its telecommunications regulatory body responds in its rulemaking to all significant and relevant issues raised in comments filed with the telecommunications regulatory body; and
5. Its measures relating to public telecommunications services are made publicly available, including:
   1. Measures relating to tariffs and other terms and conditions of service; specifications of technical interfaces; conditions for attaching terminal or other equipment to the public telecommunications network; and notification, permit, registration, or licensing requirements, if any; and
   2. Procedures relating to judicial and other adjudicatory proceedings.

**What it means**
- Telecom regulator’s decisions are made fully public.
- No asymmetry in information or access to the telecom regulator.

**Legal Aspects**
- Goes beyond GATS transparency provisions.
- Transparency obligation makes market environment predictable.

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**FTA Telecom Provisions**

**ARTICLE 14.19: RESOLUTION OF TELECOMMUNICATIONS DISPUTES**
Each Party shall ensure that:
Recourse
1. Enterprises may have recourse to a telecommunications regulatory body to resolve disputes regarding the Party’s measures relating to matters set out in Articles 14.2 through 14.12 (obligations relating to suppliers of PTS and major suppliers); and
2. Suppliers of PTS of the other Party that have requested interconnection with a major supplier in the Party’s territory may seek review by its telecommunications regulatory body to resolve disputes regarding the terms, conditions, and rates for interconnection with that major supplier.

Judicial Review
Any enterprise whose legally protected interests are adversely affected by a decision of the Party’s telecommunications regulatory body may obtain review of the 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.

**What it means**
- With greater market access, need to deal with disputes among telcos.
- Provides principles and process of dispute resolution in case of conflict.

**Legal Aspects**
- Goes beyond Reference Paper art 2.5; principle of DR applied to not only interconnection but to all other disputes.
- TBA art 35, 40.2 provides guidelines to resolve dispute; based on art 36.2.
ARTICLE 14.21: MEASURES CONCERNING TECHNOLOGIES AND STANDARDS

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 ICT.

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, 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.

(Para 3-5 omitted)

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**What it means**

- Sets out principles of "technology neutral" regulation, while also recognizing government right to pursue legitimate public policy objectives
- In conformity with WTO principles

**Legal Aspects**

- A first in Korea’s FTA experience
- Provides framework for technology regulation
- Greater transparency and accountability in technology regulation

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**Thank You!**

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