

DRAFT
Subject to Legal Review for Accuracy, Clarity, and Consistency

Dear :

In the course of negotiations between the United States and the Republic of Korea regarding the United States - Korea Free Trade Agreement, the delegations of the Republic of Korea and the United States discussed a range of issues relating to electronic commerce and the importance of open access to the Internet for electronic commerce-related activities.

In this connection, both delegations recognized that principles on access and use of the Internet of the type contained in Article 15.7 (Principles on Access to and Use of the Internet for Electronic Commerce) support the Parties' shared goal of maintaining an open and competitive environment for electronic commerce-related activities, and that lawful contractual arrangements among network providers, application and service providers, content providers, and Internet users may be enforced by a Party consistent with these principles, provided they are not deemed exclusionary by the Party's relevant authorities.

Furthermore, both delegations also recognized that there is an ongoing debate in the United States and Korea concerning reasonable and appropriate cost distribution between network providers, application and service providers, content providers and Internet users, the outcome of which may affect access to and use of the Internet and the incentives for network investment. Both Parties recognize that consistent with the findings of the Organization for Economic Cooperation and Development (OECD) in 2005¹, commercial arrangements among competitive suppliers have effectively addressed the international aspect of these issues.

Korea also noted that with respect to Article 15.7(d), it considers that "network providers" covers services suppliers identified in Korea as "Internet Access Providers".

I would be grateful if you could confirm that your Government shares these views regarding the discussions relating to electronic commerce and principles on access to and use of networks.

Sincerely,

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[Reply Letter Forthcoming]

¹ OECD, "Internet Traffic Exchange: Market Developments and Measurement of Growth", DTSI/ICCP/TISP (2005), at 11.