

Annual Reform Recommendations from the  
Government of the United States to the Government of Japan under the  
U.S.-Japan Regulatory Reform and Competition Policy Initiative

October 18, 2007

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The U.S.-Japan Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative) continues to contribute to growth and opportunity for the citizens of both countries by promoting reforms that open new markets, reduce burdensome regulations, increase transparency, and stimulate competition. The Regulatory Reform Initiative, now in its seventh year, also remains a key forum for deepening and broadening our bilateral economic relationship.

The Regulatory Reform Initiative was created in 2001 under the U.S.-Japan Economic Partnership for Growth to promote a pro-growth agenda of reform through sectoral and cross-sectoral reforms. As a result, this year's recommendations by the United States focus on making continuing progress in industry sector areas such as medical devices and pharmaceuticals, communications, financial services, information technologies, and agriculture, as well as advancing progress in several cross-sectoral issue areas such as intellectual property, commercial law, competition policy, and transparency. The United States continues to look to Japan to undertake important economic reforms in these and other areas in order to achieve the aims of this Initiative.

This year's U.S. recommendations also place an emphasis on the United States' desire to continue to work closely with Japan both bilaterally and in regional and other fora to promote higher standards of intellectual property protection as well as transparency across the Asia-Pacific region and beyond.

These comprehensive U.S. recommendations serve as the basis for discussions over the coming months in the Initiative's High-Level Officials Group as well as in four different working groups covering telecommunications, information technologies, medical devices and pharmaceuticals, and cross-sectoral issues. Progress achieved by each Government in response to the other Government's recommendations is then documented and presented to the President and Prime Minister in the Regulatory Reform Initiative's annual Report to the Leaders.

The Government of the United States continues to look forward to constructive discussions on these recommendations and welcomes receiving the Government of Japan's recommendations under this Initiative.

## COMMUNICATIONS

The United States continues to monitor Japan's regulatory reform efforts affecting its communications sector with a view to promoting competitive opportunities for innovative services and technologies. Key regulatory principles that enhance such opportunities include maximizing operators' choice of technology, ensuring efficient and minimally burdensome equipment approvals, transparency and impartiality of rulemaking (particularly in the wireless area).

### *RECOMMENDATION HIGHLIGHTS*

**Promoting Competition and Efficiency in the Wireless Sector:** Eliminate threat of fees for device manufacturers or users of license-exempt services (e.g. WiFi) to ensure robust usage of such services; expeditiously license new spectrum, or "re-farm" existing spectrum for wireless broadband systems on a technology-neutral basis; ensure new mobile entrants enjoy reasonable interconnection arrangements with other wireless operators to offer customers reasonable roaming arrangements as network build-out progresses.

**Promoting Streamlined Regulation of Convergent Services:** Ensure that efforts to

develop new rules for video offered over telecom networks are implemented in a transparent manner with a view to minimizing unnecessary regulation.

**Strengthening Competitive Safeguards on Dominant Carriers:** Ensure that NTT East and West offer cost-oriented interconnection rates once current regime expires; eliminate East-West subsidies and ensure interconnection offerings for their Next Generation Network are subject to sufficient transparency and consultation with affected companies; review financial conditions imposed on competing carriers.

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## INFORMATION TECHNOLOGIES

The United States' recommendations seek to promote competition and confidence in government procurement of information technologies (IT), improve mutual understanding of e-Accessibility policy, advance the adoption of information technology to improve the quality and efficiency of Japan's healthcare system, strengthen protections for intellectual property rights (IPR) focusing on infringement in the digital age, enhance IPR enforcement in the region and globally, and ensure any revisions in the implementation of the Privacy Act also enhance the business environment.

### *RECOMMENDATION HIGHLIGHTS*

**IT and e-Commerce Policymaking:** Facilitate private-sector input and transparency in policymaking; foster technology neutrality; promote compatibility with international practice.

**Government IT Procurement:** Specify plans to ensure compliance with the Basic Policy and assess progress made under the Policy; allow contractors to possess IPR created in government IT system development; promote competitive bidding.

**Health IT and e-Accessibility:** Promote adoption of Health IT through effective implementation of the Grand Design and increased incentives for use of Health IT; exchange information on e-accessibility policies and activities.

**IPR and Copyright Protection:** Strengthen protection, including through adoption of measures to defend against online piracy and increased term of protection for sound recordings and other works.

**IPR Cooperation:** Promote strong standards for IPR protection and enforcement worldwide, especially in the Asia-Pacific, through enhanced cooperation in various fora; promote information exchange on trademarks and streamline patent procedures.

**Privacy:** Ensure that any revisions of Privacy Act implementation enhance the business environment and do not restrict trans-border data flows.

# COMMUNICATIONS

The United States has broad interests in the Japanese communications market which have been supported by the Japanese Government's efforts to foster a more competitive market, encourage new entrants, and introduce new technology. To enhance these opportunities, the United States suggests several areas where additional action would be mutually beneficial to both Japanese and U.S. suppliers and consumers.

## I. Wireless Devices and Services

- A. License-Exempt Use of Spectrum. Clarify that spectrum user fees will not be applied to license-exempt use of spectrum, the imposition of which could unduly constrain innovative uses of spectrum and require burdensome and inefficient collection mechanisms.
- B. Licensed Spectrum.
  - 1. Conduct broadband wireless spectrum assignment currently under consideration (two licenses proposed for 2.5 GHz spectrum) in a timely, transparent, objective and non-discriminatory manner that adheres to principles of technology neutrality; and
  - 2. Clarify procedures for ensuring competitive access to 800 MHz spectrum being vacated by carriers transitioning to 3G services in different bands.
- C. Competition in the Mobile Sector.
  - 1. Ensure new entrants' ability to roam onto existing mobile networks, particularly of the dominant NTT DoCoMo network; and
  - 2. Ensure that sufficient review is conducted to ensure that incumbents do not abuse dominant market positions as a means to unduly constrain new entrants in the market for call termination.
- D. Wireless Equipment. Finalize the procedures for "family approval" for wireless LAN antennas.

## II. Wireline Services

- A. Interconnection.
  - 1. Ensure that interconnection rates offered by NTT East and West continue to be set in a transparent manner, consistent with cost-oriented principles, even after transition away from long-run incremental cost (LRIC) methodology is implemented;

2. Ensure that interconnection arrangements offered by NTT East and West for their Next Generation Network (NGN) are developed in a transparent manner, where all interested parties have an opportunity to comment on economic and technical requirements NTT seeks to impose prior to implementation; and
3. Take definitive steps to eliminate cross subsidy based on transferring above-cost interconnection revenue from NTT East to West

**B. Safeguards on Dominant Carriers for New Entrants.**

1. Prior to eliminating any unbundling requirement, conduct a market review based on competition principles, incorporating public comments, to evaluate relevant instances of market power and bottleneck control;
2. Limit the amount of proprietary financial information that needs to be disclosed to NTT, ensure adequate regulatory measures are in place to protect data submitted, and ensure that appropriate levels are set with respect to amounts required by NTT for security deposits from interconnecting carriers; and
3. Ensure appropriate rates for leasing of ducts.

**III. Convergent Services.** In light of various Ministry of Internal Affairs and Communications (MIC)-sponsored study groups making recommendations on the regulatory treatment of converged services:

- A. Ensure that copy restrictions imposed on digital content distribution do not unduly burden network service providers;
- B. Institute transparent process for addressing issues relating to broadcast content provided over non-broadcast media (e.g. the Internet); and
- C. Endeavor to minimize the application of broadcast regulation on IP-based services, to ensure that new digital products and services are not encumbered with trade-distorting restrictions.

**IV. Other.** Continue to strengthen procedures and conditions for ensuring the impartiality of regulatory decision-making.