

June 30, 2007

Mr. Jong Hoon Kim
Chief Negotiator for the KORUS FTA
Seoul, Republic of Korea

Dear Ambassador Kim:

During the course of negotiations regarding Chapter Fifteen (Electronic Commerce) of the Free Trade Agreement between our two Governments signed on this day, the delegations of the Republic of Korea and the United States of America discussed a range of issues relating to electronic commerce and the importance of open access to the Internet for electronic commerce-related activities.

Both delegations recognized that the principles on access to and use of the Internet 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. The delegations also recognized that lawful contractual arrangements between network providers, application and service providers, content providers, and Internet users may be consistent with these principles, provided that the Party's relevant authorities do not determine that the arrangements are exclusionary.

The delegations further recognized the 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, and that this debate's outcome may affect both access to and use of the Internet and the incentives for network investment. The Parties recognized that, consistent with a report of the Organization for Economic Cooperation and Development (OECD) in 2005,¹ commercial arrangements between competitive suppliers have effectively addressed the international aspect of the cost distribution issue.

Finally, the delegation of Korea noted that, services suppliers identified in Korea as "Internet Access Providers" are "network providers" within the meaning of Article 15.7(d).

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,

Wendy Cutler
Chief Negotiator for the KORUS FTA

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