



Position Paper on the Transatlantic Trade and Investment Partnership



I- The importance of the Transatlantic Trade and Investment Partnership

On February 13th, the EU and the US announced plans to start negotiations on a Transatlantic Trade and Investment Partnership (TTIP). This decision is very much welcome. As the economies on both sides of the Atlantic are struggling, improving the conditions for trade and investment between the EU and the US can become an additional source of growth and prosperity. Enhancing economic ties through an agreement could bring overall annual gains of 0.5% increase in GDP for the EU and a 0.4% increase in GDP for the US by 2027. This would be equivalent to €86 billion of added annual income to the EU economy and €65 billion of added annual income for the US economy¹. Furthermore, a successful conclusion would certainly strengthen the competitiveness of our economies in the global market place.

Negotiations will aim to achieve ambitious outcomes in three broad areas: a) market access; b) regulatory issues and non-tariff barriers; and c) rules, principles, and new modes of cooperation to address shared global trade challenges and opportunities.

¹ Source: European Commission, DGTrade.



II- The need for a holistic perspective of the Digital Economy in the TTIP negotiations with a focus on investment and innovation

ETNO has responded^{2 and 3} to the Public Consultations that were launched by DG Trade during 2012 related to the TTIP. In these earlier statements ETNO pointed out that in international trade non-tariff related trade barriers are becoming more and more important. Particularly in service industries like the Information and Communications Technologies sector (ICT) and more broadly speaking, the Digital Economy, non-tariff related trade barriers such as different regulatory regimes governing the provision of services in the respective jurisdictions often may lead to unhealthy asymmetries in the trade and investment relationship.

In the context of the ICT services, it is of particular importance for European companies that the TTIP ensures a level playing field, providing for equal access of EU service companies to the US market and at the same time ensuring that service providers from the US have to respect the same rules applicable to EU companies when providing services in Europe or to European customers. Different regulatory regimes have put European companies at a disadvantage, leading to unhealthy asymmetries in the EU-US relationship. In particular, this situation has led to the dominance of *Over The Top* (OTT) players in the Digital Economy value chain, leading to imbalances that need to be addressed.

² ETNO Response to DG Trade's Public Consultation on regulatory issues for a possible future EU-US trade agreement
<http://www.etno.eu/news/etno/2012/89>

³ ETNO Contribution to Public Consultation on EU – US High Level Working Group on Jobs and Growth
<http://www.etno.eu/home/positions-papers/2012/6>



Both parties will have to take into consideration two very relevant facts:

- 1- Different approaches between the EU and US regulatory frameworks have shaped the sector into different realities and have consequences in terms of the classification of telecommunication services and the regulatory obligations associated to them. **The TTIP negotiations shall be seen as an opportunity to converge on a common vision for the sector that would promote a flexible and investment-friendly environment with less focus on the use of the incumbents' legacy networks through regulated access and more emphasis on dynamic outcomes such as investment and innovation.**

- 2- ICTs have experienced a radical transformation in the last decade with the development of the Internet as a common platform where convergent voice, data and video services are provided by a range of actors running on top of traditional network operators and not subject to the same legacy regulations. Instead of relying on the traditional silo approach towards the GATS services classification into “Computer and Related Services” and “Telecommunications Services”, the **TTIP should seek to minimize regulatory impediments to integrated ICT services, relying on competition principles to address any potential abuse of dominant positions that could have a trade restrictive effect at any stage of the value chain.**

A holistic vision with a common understanding of the Digital Economy ecosystem should be an objective for the EU and US Administrations which should be reflected in the TTIP, to ensure a level playing field among all actors involved in the provision of services. This would require a **comprehensive chapter on the Digital Economy** to reflect the changes in the competitive dynamics of the sector – due to convergence in the Internet platform – and to ensure open markets for innovative services across the value chain. This holistic view should also be helpful to avoid the negative impact that



current fragmentation of regulatory schemes in EU Member States and also at the US State level are having in the market.

ETNO urges the TTIP negotiators to establish provisions with the aim of ensuring a level playing field among all actors involved in the provision of ICT services, developing a comprehensive chapter on the Digital Economy.

III- Underpinning network investment at both sides of the Atlantic should be at the basis of the TTIP negotiations

Concerning network investments, there are several issues stemming from divergences of the EU / US regulatory frameworks (or the application in practice), in particular with regard to market access regulation, access to spectrum, competition rules and merger control standards as well as US foreign ownership restrictions.

Market access regulation

The basis of a strong and vibrant Digital Economy on both sides of the Atlantic will be new communication and broadband infrastructures. The role of broadband as a multi-purpose technology and a key driver of economic growth and job creation, due to its multiplier effect across all sectors of the economy, are widely recognized both by the US and the EU.

The reality however is that while pursuing common goals such as the need to stimulate broadband deployment and adoption, the EU and the US have designed regulatory frameworks for the sector with divergent approaches and results: In the EU, the implementation of the 2003 Regulatory Framework has been strongly conditioned by objectives (such as direct regulation of retail and wholesale prices) geared towards promoting competition based on network access by new entrants. Meanwhile, the US has decided to free up investments in new infrastructures from sector regulation to



foster a model of intermodal infrastructure-based competition based on multiple competing platforms (i.e. Cable, FTTH, Mobile, and Satellite). The issues at stake are high, as the regulatory framework has a crucial impact on the decision from operators to invest in the deployment of very high-speed networks, particularly at the access level.

As a result of too much regulatory pressure in the EU, especially on prices as a consequence of the obligation to resell services at cost-oriented prices, we are currently witnessing a steep decline in telecoms revenues in Europe vs. growth in other regions of the world including the US. The forecasts until 2016 follow a trend that shows 1.3% per annum decline in Europe vs. 4% per annum positive in the US. This trend is directly correlated to investment in new generation networks with a growing gap between both regions (i.e. average EU LTE coverage below 10% vs. over 65% in the US at the end of 2011). The consequence of this growing gap can be felt already in terms of take up and use of new services across the Atlantic with the risk of an unbalanced development of the Digital Economy that would limit the potential for trade in innovative services.

Access to spectrum

Spectrum is a key asset to our businesses, in particular for the development of mobile broadband services, which are expected to become increasingly more important than Fixed Broadband access, thereby enhancing the degree of inter-platform competition (between fixed and wireless technology solutions). **The business case for mobile broadband is highly dependent on regulatory policies** to ensure adequate availability of spectrum. Spectrum allocation processes, either by auctions or beauty contests, must be properly designed to assign spectrum in the most efficient and timely way possible. Auctions should not be used as a means to maximize revenue for the States.

The immense demand for mobile data and increased bandwidths underscores the urgency for additional spectrum for mobile services. Governments are recognizing the



need for additional spectrum. For example, to help the wireless industry meet this demand, the US Federal Communications Commission's (FCC) National Broadband Plan of 2009 recommended that the FCC allocate for commercial use an additional 300 MHz of spectrum by 2013 and an additional 500 MHz of spectrum by 2020.

As a key step in this process, the FCC recommended the allocation to commercial use of spectrum in the 1755-1780 MHz band currently designated for use by the US government. Industry has repeatedly stated its strong interest in having a cleared 1755-1780 MHz band. The allocation of this spectrum would not only help wireless providers meet demand in the US, but could also contribute to LTE roaming in the Americas. Reallocation of these frequencies thus represents an opportunity for US and transatlantic economic growth and job creation and would lower barriers to access to the US wireless market for smaller and potential future providers, in return contributing to a vibrant competitive marketplace. Timing is of the essence, however. Making the 1755-1850 MHz band available for commercial mobile broadband use has long been considered beneficial, yet its reallocation has been delayed repeatedly over the years. As this spectrum is currently being used by the government itself, it is in the hands of the US Administration to take advantage of this unique opportunity to spur investment, competition and economic growth by making it available for mobile broadband services. Additionally, harmonization on spectrum policies, with the aim of setting global standard would be desirable.

In order to level the playing field between companies making business across the Atlantic, existing imbalances regarding the amounts of spectrum available should be tackled.

Competition rules and merger control standards

A further stimulus towards harmonization between the US and EU competition authorities would be key in the Digital Economy sector. On both sides of the Atlantic, there is a need to refresh the approach towards Digital Services markets, to take fully



into consideration the new competitive landscape achieved through convergence and the new positions of dominance at different stages of the value chain (i.e. operating systems for the mobile platform) that are restricting competition and ultimately limiting choice for consumers. On the other hand, the restrictive positioning of EU and US regulatory and antitrust authorities towards further consolidation of markets could effectively prove to be a trade barrier for competitors across the Atlantic.

Foreign ownership restrictions

Creating a favourable environment for investments is crucial for the development of economies. Opening the markets to foreign capitals is critical, especially in the context of a close partnership between the EU and the US. Identical levels of reciprocity should be pursued in this sense, allowing full participation of foreign companies in the Digital Economy sector.

While the US has a general policy of openness to foreign investment, it does restrict foreign investment in certain US assets. Sectors with specific restrictions to foreign ownership include the communications sector. For example, section 310(b)(4) of the Communications Act of 1934 establishes a 25% benchmark for indirect investment by foreign individuals, corporations and governments in entities that control a broadcast, common carrier or aeronautical radio station license, unless the Federal Communications Commission (FCC) finds that a higher level of ownership is consistent with the public interest. Such restrictions do not exist in the EU. In addition, even when EU-based companies have entered the US market, they – according to the US Government Accountability Office - often have to comply with complex and burdensome foreign ownership requirements. This can hamper EU investors' ability to react as swiftly to market developments as their US competitors, placing them at a competitive disadvantage. EU-based investments in the US telecommunications sector should be given a level-playing field with their US-based competitors.



In particular, European companies should be exempted from lengthy and bureaucratic approvals by the US Committee on Foreign Investment in the United States (CFIUS). Certain US transactions involving companies with a foreign ownership may be scrutinized more closely by the Executive Branch through the CFIUS to ensure that the investment in or acquisition of US assets does not impair US national security, US law enforcement or infra-structure protection interests. Foreign investors have been required to enter into voluntary security agreements or to amend existing security agreements with the Departments of Homeland Security, Treasury, Justice, the FBI and other CFIUS agencies before obtaining approval for their proposed transactions. There are no similar provisions in the EU for examinations of foreign investments. Thus, this has created an unlevel playing field among EU-based and US-based investors.

ETNO urges the TTIP negotiators to promote a competitive Digital Economy marketplace. This can be done by supporting a dynamic and flexible commercial environment allowing new business models, ensuring that all actors in the market have a meaningful opportunity to acquire spectrum, taking fully into consideration the new competitive landscape achieved through convergence and the new positions of dominance at different stages of the value chain and clearing any restrictions to foreign ownership.



IV- A favourable framework for the provision of new and innovative services across the value chain

The TTIP negotiations are a great opportunity to define a favourable framework for the development of innovative services, some of which provide users offerings that combine services that might have been considered under separate classifications in past trade agreements. The clustering or integration concept is especially important for computer, telecommunications, and related services.

TTIP negotiators should recognize the role that OTT players have in services which are in direct competition with telecommunications services (in particular messaging and voice). Moreover they should recognize the existence of positions of dominance in different layers of the value chain which challenge the traditional view of telecommunications operators as the bottleneck for access to customers. Mechanisms of oversight on all the actors of the Digital Economy value chain based on the application of competition principles should be ensured to avoid abuses of dominance.

Moreover TTIP negotiators should take into consideration the current challenges that are threatening the economic sustainability of the Internet: challenges associated with exponential traffic growth and the need for new business models and new services and offerings in a broadband world. The fundamental notion of a dynamic commercial environment to allow business models that are able to support the next level of investment in infrastructure is critical for the future of the Digital Economy on both sides of the Atlantic. The introduction of any rules which would limit the ability of telecoms network operators to negotiate on a commercial basis new value propositions on top of their networks should be avoided. This includes the ability to charge for data traffic in proportion to network usage.



The EU and the US should move beyond the traditional approach of services, namely “Telecommunications Services” and “Computer and Related Services”, to a holistic view of the digital ecosystem with active participation of all the agents of the value chain. In this sense it will be critical to facilitate the possibility for telecommunications operators to generate value – for them for society and for consumers – through services supported over their capabilities: identification, authentication, billing and customer care, bundling offers and active traffic management. For that matter, the EU and the US should consider whether the distinction in their internal regimes between communications and information services in the case of the US and between electronic communications services and information society services in the case of the EU is relevant anymore or is just distorting competition among regulated players (communications operators) and unregulated players (OTTs). The TTIP negotiations should consider moving beyond these obsolete categories ensuring a consistent approach towards the classification of Digital Economy services. A negative list approach in the TTIP schedule of commitments may be helpful to ensure the maximum level of liberalization, limiting restrictions to the modes of supply only to those explicitly reflected by the negotiating parties.

The slow evolution of regulations has created a legal vacuum for a set of services, as for example, in the case of voice services for private corporate networks, where Unified Communications are to be the reference for the segment. Only once there is a clear legal framework for those types of services, it will be possible to develop new business models and the TTIP is an opportunity to clear the path towards innovative models.

In developing a future-proof set of Digital Economy trade measures, the TTIP should seek to minimize regulatory impediments to integrated services and complex supply chains and should recognize the trade-enhancing value of relying on competition wherever possible. It should also consider a negative list



approach in order to allow for the provision of innovative services that are not reflected in the current classification system.

ETNO urges the TTIP negotiators to minimize the regulatory impediments to the deployment of innovative services, relying on ex-post surveillance of the markets.

V- Further important topics

Further important topics to be taken into account in TTIP negotiations are data protection, cyber security, intellectual property rights as well as entry requirements with regard to the temporary movement of service personnel.

Data protection and trans-border data flows

Basically no international trade can be done without cross border data exchanges. The normal functioning of the digital economy requires the routine movement of large amounts of personal data, within the domestic economies, but also in this global world, across borders. The EU has a high level of protection of personal data, irrespective of whether processed by public authorities or private entities. This high level of protection is based on European fundamental rights and is not disposable. There are currently ongoing legislative efforts to further harmonize European data protections rules by an EU Regulation. In ETNO's view, this is a positive development that guarantees equal conditions throughout Europe with a relatively high standard of protection for European citizens and helps to maintain and further built trust in a modern knowledge based economy. Furthermore, the future EU Data Protection Regulation foresees that non-EU based services providers, that target consumers in the EU – e.g. online services, – will have to comply with the future EU Data Protection rules in order for all businesses to compete on a level-playing-field and to provide a consistent protection to EU citizens.



European data protection rules providing for strong safeguards should not be regarded as a trade barrier. They typically fall under the exception as provided for by Article XIV of the General Agreement on Trade in Services (GATS). High data protection standards help to enhance trust of users in new internet based business models, in particular with respect to upcoming new cloud computing offers. Hence, it must be ensured that the TTIP does not allow for any circumvention or weakening of European data protection regulation, i.e. with regard to international data transfers. Binding provisions such as Binding Corporate Rules are necessary to facilitate cross-border data flows essential for the provision of legitimate activities in a globalized world.

It is important to ensure that cross-border data flows are not limited by a requirement of legal or physical local establishment. The obligation to use local infrastructure or to establish a local presence should not be required as a condition of supplying data services.

Regarding collaboration and action towards third markets, the EU and the US should work together and contribute to the building of high and widely agreed international standards on data privacy, compatible with EEA legislation. Global companies operating worldwide frequently face varying obligations under data protection rules in different jurisdictions. This creates a confusing and non-harmonised patchwork of legislation that companies are confronted with and have to abide with, with sometime contradicting requirements. The EU and the US should lead the work towards the setting up of international data protection's standards, to avoid balkanisation of the digital economy.



Cyber Security

With the increasing number of threats and criminal attacks on networks, enhancing cyber security has become a policy priority worldwide. The lack of trust in the security of Digital Economy products and services can become a major obstacle for a sustainable development and take-up of new e-services. The EU Commission has recently published a comprehensive Strategy on Cyber Security, including a proposal for a Directive concerning measures to ensure a high common level of network and information security across the EU. The Directive will require operators of critical infrastructures and key providers of information society services like e-commerce platforms and social networks, as well as public administrations to adopt appropriate steps to manage security risks and report serious incidents to the national competent authorities.

The minimum security requirements must be defined in a way targeting the same level of security and guaranteeing a level playing field along the value chain of all players involved. Consequently requirements and obligations must equally apply to all companies operating in Europe or providing services to European customers, like OTT's, social networks, search engines, e-commerce-platforms, etc. The real challenge is to create a transatlantic level playing field for international operating companies.

Intellectual property rights

Under the forthcoming TTIP negotiations the right holders on both sides of the Atlantic might see a new opportunity to further advance and defend their interests with regard to strong protection and effective enforcement of intellectual property rights (IPR) despite the high level of intellectual property protection already in place. In the EU IPR enforcement is regulated by EU Directive 2004/48/EC which has proven to deliver a sufficient and sound basis for IPR protection. Thus ETNO does not see any need to review the current IPR enforcement regime.



Past experiences with the ACTA Treaty have shown that IPR enforcement is an issue, which could lead to a failure of the whole TTIP exercise. In recent reactions the civil rights organisations on both sides of the Atlantic have already flagged their anxiety with regard to the inclusion of IPR enforcement rules into the TTIP. The most controversial aspects relate to the rules concerning liability of online intermediaries. As a consequence, at least intermediary liability should be excluded from the scope of the TTIP. Any inclusion of IPR enforcement should therefore be thoroughly justified by severe flaws in the current situation.

Instead of focussing on IPR enforcement, the TTIP could foster the provision of legal offers by enhancing the marketability of rights. Especially with respect to online-services in the music sector, it is crucial, that a right of use in one work, e.g. the right to make a work publicly available (including downloading and/or streaming, which eventually incorporates a reproduction on the server of the provider and/or the user) is not split up in two parts, i.e. the right to copy and store on the one hand and performing rights on the other hand. The splitting up of rights for just one sort of use creates a severe obstacle to free trade and circulation of rights for service-providers and users. This hampers the development of innovative legal offers of creative goods.

Temporary movement of service personnel

There are asymmetric rules concerning cross border movement of service personnel. Business travellers from Europe to the USA have to meet much higher entry requirements and lead times than US travellers do when entering Europe. Such asymmetries lead to trade distortions that should be addressed in TTIP.

ETNO urges the TTIP negotiators to take into account the importance of fostering an environment that does not hamper the free flow of data, assuring the



application of current levels of data and IPR protection and creating a level playing field for cyber security issues among all operating companies.

VI- A New vision of the EU - US Trade Policy Principles for ICTs

Under the above premises, ETNO proposes to include a chapter covering the overall Digital Economy in the TTIP having in mind a comprehensive and holistic view of the whole sector. For this purpose, we would propose to amend the 2011 EU-US ICT Principles, enhancing some aspects and including new items. Especially relevant would be the provisions on “*Commercial Flexibility*” that should be included to amend the Principle of Openness: on account of the new competitive scenario, the EU and the US should not only promote the ability of consumers to legitimately access and distribute information and run applications and services of their choice, but also ensure the ability of connectivity suppliers to manage their networks, develop new business models and supply services, including convergent and multiple-play services, on a cross-border, technology neutral basis.

The text of the 2011 ICT Trade policy principles would be at the basis of the ***Digital Economy Chapter of the TTIP*** with the following wording:

These principles are without prejudice to governments' rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization (WTO), and to the exceptions contained in the WTO General Agreement on Trade in Services (GATS). They are also without prejudice to the policy objectives and legislation of the European Union and the United States in areas such as the protection of intellectual property, the protection of privacy and of the confidentiality of personal and commercial data, and the enhancement of cultural diversity (including through public funding and assistance). ~~These principles are not intended to apply to financial services.~~

The European Union and the United States intend to cooperate with third countries to enhance national regulatory capacity and support the expansion of ICT networks and services, which are powerful tools for promoting economic development. The European



Union and the United States intend to review this chapter biannually, with a view to discussing their implementation and use and to further refining and expanding them, as appropriate.

~~Governments seeking to enhance their national regulatory capacity and support the development of ICT networks and services should embrace the following principles and, as appropriate, work to integrate them, in a technologically neutral manner, into bilateral and multilateral trade disciplines:~~

1. **Transparency:** ~~Governments~~ The Parties should ensure that all laws, regulations, procedures, and administrative rulings of general application affecting ~~ICT~~ the Digital Economy and trade in ICT services are published or otherwise made available, and, to the extent practicable, are subject to public notice and comment procedures.
2. **Open Networks, Network Access and Use:** ~~Governments, preferably through their regulators,~~ The Parties should promote the ability of consumers legitimately to access and distribute information and run applications and services of their choice. ~~Governments~~ The Parties should not restrict the ability of suppliers to ~~supply services over the Internet~~ manage their networks, develop new business models and provide innovative ICT Services on a cross-border and technologically neutral basis, and should promote the interoperability of services and technologies, where appropriate.
3. **Cross-Border Information Flows:** ~~Governments~~ The Parties should not prevent ~~service~~ suppliers of ICT services ~~of other countries,~~ or their customers ~~of those suppliers,~~ from electronically transferring information internally or across borders, accessing publicly available information, or accessing their own information, ~~stored in other countries.~~ regardless of the place it is stored, in compliance with existing Data Protection Rules at the customer's jurisdiction. Countries should promote the application of a Data Protection standard.
4. **Local Infrastructure:** ~~Governments~~ The Parties should not require ICT Service suppliers to use local infrastructure, or establish a local presence, as a condition of supplying services. In addition, ~~Governments~~ the Parties should not give priority or preferential treatment to national suppliers of ICT Services in the use of local infrastructure, national spectrum, or orbital resources.
5. **Foreign Ownership:** ~~Governments~~ The Parties should allow full foreign participation in their ICT Services sectors, through establishment or other means.
6. **Use of Spectrum:** ~~Governments~~ The Parties should maximize the availability and use of spectrum by working to ensure that it is managed effectively and efficiently, and, where appropriate, in accordance with applicable International Telecommunication



Union Radiocommunication Sector (ITU-R) recommendations. The allocation of spectrum ~~for commercial purposes~~ should be carried out in an objective, timely, transparent, and non-discriminatory manner, with the aim of fostering competition and ~~innovation~~ the development and innovation of wireless services. ~~Governments are encouraged to empower regulators with impartial, market-oriented means, including auctions, to assign terrestrial spectrum to commercial users.~~

7. **Regulatory Authorities:** ~~Governments~~ The Parties should ensure that the regulatory authorities that oversee ICT Services sectors are legally distinct and functionally independent from governments and ~~all~~ service providers, and have sufficient legal authority and adequate resources to perform their functions effectively. Regulatory decisions and procedures should be impartial with respect to all market participants. Regulatory decisions regarding ICT Services, and the results of appellate proceedings regarding such decisions, should be ~~impartial with respect to all market participants~~. ~~Regulatory decisions regarding ICT services, and the results of appellate proceedings regarding such decisions should be,~~ publicly available. The Parties shall empower regulators with impartial, market-oriented means, including auctions, to assign terrestrial spectrum to commercial users.
8. **Regulatory best practices:** The Parties should exchange information regularly, identifying the nature and value of the elements that foster the development of the Digital Economy, assessing the effects that their policies and regulations have, and adjust them accordingly. The Parties should have the commitment to eliminate regulations in situations where competitive market forces are demonstrated to be present to achieve the regulatory objective.
9. **Competition Safeguards:** The Parties should ensure Anti-Trust Authorities' oversight of all actors of the Digital Economy value chain, avoiding abuses of dominance and fostering the principles of interoperability, portability and the development of open standards.
10. **Authorizations and Licenses:** ~~Governments~~ The Parties should authorize the provision of competitive ~~telecommunications~~ ICT Services, wherever possible, on simple notification by a service provider, and should not require legal establishment as a condition of supplying a service. Licenses should be restricted in number only for the purpose of addressing a limited set of specified regulatory issues, such as the assignment of frequencies.
11. **Interconnection:** Consistent with the GATS Telecommunications Annex's access and use provisions, ~~governments~~ the Parties should ensure that public telecommunications service suppliers have the right and the obligation to negotiate and to provide interconnection on commercial terms with other providers for interconnection to publicly available telecommunications networks and services. ~~It~~



~~addition, in accordance with the GATS Reference Paper on Basic Telecommunications, countries should ensure that public telecommunications service suppliers are able to negotiate and obtain interconnection with major suppliers at cost-oriented, non-discriminatory, and transparent rates.~~

- 12. International Cooperation:** ~~Governments~~ *The Parties* should cooperate with each other to increase the level of digital literacy globally, reduce the "digital divide", *work towards building ICT capacity and address Digital Economy related issues on third countries and examine best practices with a particular effort to limit domestic protectionist policies.*

VII- Implementing the EU-US partnership on the Digital Economy

There is a wide consensus that ICT services are a key driver of economic growth on account of their multiplier effect across all sectors of the economy, providing the foundation for global competitiveness and job creation in manufacturing, agriculture and services. Therefore, it is of outmost importance to **assure the correct application of the provisions agreed on the Digital Economy chapter of the TTIP.**

The existing EU-US ICT Dialogue, consisting on annual meetings should be enhanced to include the participation of high-level rank officials on Trade and Competition issues, together with regulators and including participation from the industry. The objective of the meetings should be addressing the challenges derived from the TTIP agreement and from the evolution of this, by nature, innovative sector.



VI- Key messages

ETNO urges the TTIP negotiators to:

- Establish provisions with the aim of ensuring a level playing field among all actors involved in the provision of ICT services.
- Promote a competitive Digital Economy marketplace. This can be done by supporting a dynamic and flexible commercial environment allowing new business models, ensuring that all actors in the market have a meaningful opportunity to acquire spectrum, taking fully into consideration the new competitive landscape achieved through convergence and the new positions of dominance at different stages of the value chain and clearing any restrictions to foreign ownership
- Minimize the regulatory impediments to the deployment of innovative services, relying on ex-post surveillance of the markets.
- Take into account the importance of fostering an environment that does not hamper the free flow of data, assuring the application of current levels of IPR protection and creating a level playing field for cyber security issues among all operating companies.
- Review the EU-US ICT Principles in order to develop a comprehensive chapter on the Digital Economy.