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## AVOIDING A TELECOM TRADE WAR

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Members of Congress and officials from the European Union (EU) are engaged in a bitter war of words over telecommunications trade and investment issues. If tensions continue to escalate, this rhetorical battle could become a full-blown trade war.

The dispute stems from an amendment to the Commerce, Justice, State, and Judiciary (CJSJ) appropriations bill offered by Senator Ernest Hollings (D-SC), ranking member of the Senate Committee on Commerce, Science, and Transportation. The amendment would prohibit the Federal Communications Commission (FCC) from expending funds “to grant a license, permit, or operating authority” to any corporation in which a foreign government has more than a 25 percent direct or indirect ownership interest.

Over 30 Senators have written to the FCC expressing concern over the attempt by German communications giant Deutsche Telekom AG to acquire the American cellular company Voice Stream Wireless in a deal valued at roughly \$51 billion. The Hollings amendment would sabotage this deal by prohibiting FCC officials from reviewing and signing off on the merger. EU officials have responded by threatening to withdraw from the World Trade Organization (WTO) if the Hollings amendment becomes law. Even if the EU does not take this radical step, other retaliatory efforts are likely to follow if the issue is not settled soon.

Such a trade war would be a tragic setback for the cause of free trade and global telecommunica-

tions competition. Moreover, although policymakers on both sides of the Atlantic claim to have the best interests of their citizens in mind, a telecom trade war would hurt the interests of consumers worldwide by hampering communications industry liberalization, market competition, and consumer choice. American and European officials should do all in their power to avoid such a calamity by working through institutions such as the WTO and multilateral accords to resolve this dispute.

### Both Sides to Blame.

The current United States–EU telecom trade scuffle has its roots in a recently rejected merger of American telecom giants WorldCom, Inc., and Sprint Corp. Regulators on both sides of the Atlantic refused to allow this combination to go forward on the theory that the aggregate market power of the new company would be anti-competitive and harm consumer interests. Many U.S. lawmakers have hinted that they believe the EU’s rejection of the deal had more to do with Deutsche Telekom’s ongoing interest in acquiring Sprint.

Perhaps in reaction to the heated climate surrounding that merger, Deutsche Telekom set its sights on a smaller target, VoiceStream Wireless.

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Like Sprint, VoiceStream possesses a nationwide cellular communications network, though it is not as well-known. The decision to switch acquisition targets to the less well-known carrier did little to diminish the heat from Capitol Hill legislators. Senator Hollings and his congressional supporters argue that it would be unfair to allow Deutsche Telekom, which is 58 percent controlled by the government of the Federal Republic of Germany, to obtain control of an American telecommunications carrier.

Opponents of the amendment, however, point out that it would violate America's commitments under the WTO's Basic Telecommunications Agreement. Although this agreement is complicated and riddled with ambiguities, its general thrust is that signatory states will grant each other favorable trade and investment treatment and not seek automatically to block investments by foreign carriers in domestic communications markets.

This does not mean that domestic regulators are prohibited from attaching certain safeguards and requirements to investment efforts or blocking them after thorough review. In fact, the FCC has authority under Section 310(b) of the Communications Act of 1934 to review foreign investments in excess of 25 percent in a licensed American communications company. Rather, the Basic Telecommunications Agreement merely aims to encourage participating countries to allow for the possibility that global investment opportunities in domestic communications markets can have beneficial results. In other words, the benefit of the doubt should be in favor of allowing investment by foreign carriers.

The Hollings amendment would reverse this approach by not even allowing the FCC to review proposed investments by foreign carriers when they are more than 25 percent owned by a foreign government. Because this would violate previous agreements made by the United States under the WTO Basic Telecom Agreement and would encourage retaliatory measures by other countries, the

Clinton Administration and many American business groups have signaled their opposition to Hollings' effort. Senator John McCain (R-AZ) is leading an effort in the Senate to strip the Hollings language out of the CJSJ appropriations bill to head off a potential full-blown trade war.

**Better Way to Resolve Differences.** The McCain effort is vital in the short term to keep the peace between the United States and the EU. But longer-term problems remain that must be dealt with to discourage other telecom trade wars. Specifically, two objectives should be pursued in ongoing talks in this area.

1. **Push complete privatization.** U.S. officials should push governments that own a stake in their domestic carriers to divest themselves of these holdings. The German government's ownership interest in Deutsche Telekom will fall to 45 percent by the time the VoiceStream deal is finalized, and the government has made a commitment to divest itself further over time. But governments should no longer be involved in the communications business. Governments that control an interest in domestic carriers should privatize these interests on the most rapid timetable possible to avoid trade conflicts.
2. Work within multilateral accords and institutions to resolve transitional issues. As governments divest themselves of their communications holdings, any trade and investment disputes that arise should be settled through the WTO and the Basic Telecom Agreement. Congress should not attempt to micromanage this process, but instead should encourage the U.S. Trade Representative to work within the WTO process and institutions to achieve complete telecom trade liberalization as quickly as possible.

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