



## BT views on the future of Trade and a Digital Trade Policy

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### Trade policy is important to BT:

- Outside of the UK, BT provides electronic communications services and ICT solutions to mid-sized/large multinational enterprises and government institutions in over 180 countries.
- BT supports ambitious international trade negotiations at the bilateral, plurilateral (e.g. TiSA) and multilateral levels (WTO).
- Despite much negative debate and polemic, trade is a proven and effective means of expanding economic opportunity and should continue to be a top priority for policy-makers. It is important that agreements once concluded are ratified and implemented quickly and comprehensively to secure the maximum benefit. Policymakers must focus on the benefits that free trade offers in terms of overall economic growth, employment opportunities and societal benefits.
- Trade correlates well with ICT growth at the macro-level. Trade increases demand for ICT services and those services are an enabler of global supply chains, which in turn drive global growth.

### Global Value Chains

Today's global trading landscape is being fundamentally altered by global value chains (GVC). They depend on, and facilitate, an interconnected world. The "servicification" of industry and industry's dependence on ever-growing cross-border flows of data are two other phenomena that are defining 21<sup>st</sup> Century trade.

Manufacturing and agricultural exports require the provision of closely-linked services for two main reasons: exporters' need for services (design, testing, training, etc.) in the production of goods; and exporters' need for services (communications, transport, insurance, maintenance and after-sale etc.) that enable participation in production and distribution networks.

When policymakers seek to enhance trade in traditional goods, they must therefore consider the associated need for services and in particular business services that facilitate trade.

Abolishing tariffs is only the starting point for generating new trading opportunities. The value chain requires efficient services and the possibility to move people, capital and technology across countries.

GVCs cannot exist without well-functioning transport, logistics, finance, communication, and other professional services that help moving goods and coordinating production along the value-chain. Furthermore, much of today's trade is digital (e.g. e-commerce, trade in tasks) and almost all trade today is *digitally enabled* and therefore dependent on the exchange of data at a global scale.

Consequently, the inefficient provision of B2B services inputs harms the cross-border trade of components, equipment, and final goods and services. Trade agreements will have the largest impact if they cover as many dimensions of GVCs as possible. A cluster of business services critical for global value chains, e.g. a "GVC Facilitation Agreement in Services" could significantly enhance opportunities for all countries that aim to participate fully in the global trade system.



## **Managed business ICT services in GVCs**

Like logistics, business ICT services are a key input for multi-national and multi-site companies in all sectors (goods and services).

ICT services optimise the performance of intra- and inter-company operations. They permit global collaboration and enhance business process innovation. This enables, for example, the timely bringing to market of new fashion designs, collaboration on advanced pharmaceutical research and the engineering of new types of cars or automotive safety features by global teams.

Business ICT services accelerate the Internet of Things and the use of corporate clouds and hybrid clouds, and hence are a key enabler of the so-called “fourth industrial revolution” (or “Industry 4.0”) in which traditional industries are being radically transformed by digital technologies.

Businesses need seamless access to the provision of electronic communications services across geographies. They require end-to-end connectivity, at very high services quality and with enhanced security. The advanced service quality, reliability and security required by business customers cannot be delivered via the public internet.

Those private networks used by multi-site business customers are called Wide Area Networks (WANs). WANs can be global or limited to several countries across a region. They are a combination of a communications service provider’s own global network and leased access (including modern equivalents like Ethernet access, etc.) to third party networks (usually owned by local incumbent operators) in countries or regions where the provider does not operate its own infrastructure. Where leased access is required, providers depend on “wholesale” inputs, such as “leased lines” and for broadband (i.e. xDSL) to reach the premises of the customers’ sites wherever they are located.

On top of infrastructure, global communications suppliers build sector-specific ICT solutions or applications for their business customers – whether they are for example in finance, pharmaceuticals, manufacturing, research, logistics or maritime.

Despite research in Europe<sup>1</sup> showing that 69% of multi-national and multi-site companies and institutions would prefer to source their entire electronic communications services from a single operator, 81% report that they are unable to do so. Business communications service providers need seamless access to local access networks on a non-discriminatory basis in order to offer fit-for-purpose communications services across geographies on a competitive basis.

## **Barriers to telecommunications services stifle the supply of managed business ICT services**

BT’s Global Services division has one of the largest networks in the world. It reaches 198 countries with over 60,000 km of fibre. However, it would not be economically viable to

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<sup>1</sup> Business Communications, economic growth and the competitive challenge (WIK-Consult) 2013 (pages 38 and 41)



deploy our own infrastructure to every location across the globe where customers require services. At the same time, in many countries the national market is not competitive.

Because our business depends on access to local networks, in the absence of appropriate regulation of network access bottlenecks it can be very hard for us to serve our customers.

The WTO telecommunications regime – deriving from a 1998 accord that did not fully anticipate the rapid expansion of the digital economy – does not provide adequate regulatory certainty and is severely limited<sup>2</sup>. This becomes clear when it is compared, for instance, to the current EU regime.

In telecommunications services, trade barriers can be categorised in three ways:

- Lack of liberalisation (***no market access***);
- Foreign ownership restrictions (***limited market access***); and
- Inadequate regulatory institutions or rules to govern the market in a pro-competitive way (***flawed market access***).

Lack of liberalisation effectively bars foreign competition. Foreign ownership restrictions lead to complicated joint-venture structures. And inadequate regulatory institutions or rules are a persistent problem, even in advanced markets, making it very difficult to compete with dominant local operators.

Independent regulatory institutions that ensure application and enforcement of ex-ante regulation, based on the principles of competition law, are essential in markets that are dominated by major suppliers. It is to the benefit of all market players that regulatory intervention is aligned with established competition law concepts. Provision of cross-border business services should be encouraged by ensuring more effective and consistent regulation for wholesale access inputs<sup>3</sup>.

Many, but not all, members of the OECD, including the EU and hence the UK, have regimes in place to ensure competition, including EoI. The US does not, and therefore, among developed markets, is an outlier in this specific area.

But it is also important that especially emerging markets introduce such rules. A competitive environment for business ICT services will benefit the integration of local economies into global value chains. Furthermore, this will benefit all business including SMEs that are suppliers to larger businesses.

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<sup>2</sup> There has been only one dispute case on telecommunications at the WTO. That case was between Mexico and the United States, where the panel found Mexican incumbent abused its market position and that access rates were not charged “reasonable”. BT welcomes the panel’s decision. Given the lack of other cases in this space and significant gaps in the WTO telecoms rules however, there is no consistent application of them. Therefore the aim of the WTO telecoms regime, to reduce trade barriers in telecoms services, was never fully realised.

<sup>3</sup> For global Business-to-Business (B2B) ICT services markets, it is key to ensure: (i) availability of the services on the market through wholesale regulated business grade access services such as Ethernet leased lines and broadband (i.e. xDSL) to answer business customers’ needs/requirements; and (ii) appropriate, high-quality Service Level Agreements with major suppliers that are provided on a non-discriminatory basis (i.e. based on the principle of *equivalence of inputs*).

### **Equivalence of Inputs for providers of cross-border corporate Wide Area Networks (WAN)**

In order to operate and invest in new markets foreign providers of ICT business services need a certain level of competitive landscape and regulatory trust. It is therefore critical to put in place an effective and fully transparent non-discrimination obligation for services (typically access services) for which the local incumbent has been deemed to be dominant and, hence, where there is a market failure.

The clearest and most efficient method of providing this regulatory certainty has, by numerous independent NRAs, been the principle of Equivalence of Input.<sup>4</sup> Eol is not about imposing regulated prices by the regulator, but about ensuring equal treatment across networks.

This is a key reason why future telecoms chapters of modern trade agreements should contain non-discrimination following the principles of Equivalence of Input; it overcomes competitive concerns with a vertically integrated company, it is based on competition law assessment and provides the regulatory certainty new entrants need to invest and compete effectively in the market place

### **Forced data localisation and the cross-border flow of data**

Global supply chain management depends upon secure and efficient communications across international borders and the ability to exchange information. The fewer obstacles there are to the free flow of information, the more gains can be extracted from supply chains. This extends far beyond Internet services or e-Commerce and concerns all sectors.

Where there is no data or inefficient or insecure provision of data, there is limited or no ability to produce valuable goods and services. Likewise, where there is no data there is no trade. This has been highlighted in a number of studies conducted by the Swedish National Board of Trade.<sup>5</sup>

While the political debate around data tends to focus on personal data obtained and used in consumer facing services (B2C), the free flow of data is equally important for ICT services provided to businesses (B2B) and in particular for cloud-based services. BT provides companies with access to data on a global scale:

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<sup>4</sup> See the European Commission's recommendation C (2013) 5761 final of 11.09.2013 "on consistent non-discrimination obligations and costing methodologies": *One of the main obstacles to the development of a true level playing field for access seekers to electronic communication networks is the preferential treatment of the downstream businesses, for example the retail arm, of a vertically integrated operator with significant market power (SMP operator) through price and non-price discrimination (for example, discrimination regarding quality of service, access to information, delaying tactics, undue requirements and the strategic design of essential product characteristics)...The Commission considers that equivalence of inputs (Eol) is in principle the surest way to achieve effective protection from discrimination as access seekers will be able to compete with the downstream business of the vertically integrated SMP operator using exactly the same set of regulated wholesale products, at the same prices and using the same transactional processes.*

<sup>5</sup> See e.g., *No Transfer, No Trade – the Importance of Cross-Border Data Transfers for Companies based in Sweden*. Kommerskollegium (National Board of Trade, Sweden), 2014; and *No transfer, no production*, Kommerskollegium (National Board of Trade, Sweden), 2015: <http://www.kommers.se/In-English/Publications/2014/No-transfer-no-trade/> <http://www.kommers.se/In-English/Publications/2015/No-Transfer-No-Production/>



- BT's own business is powered by follow-the-sun global service models dealing with data across multiple jurisdictions.
- The Cloud of Clouds strategy of BT Global Services – enabled by its cloud computing services, security solutions, global connectivity, data centres, etc. – is to respond to the needs of business customers wherever they are located and as efficiently as possible through global and/or local or national solutions.
- We use 48 data centres spread around the world so that our business customers (in particular large corporate and government organisations) have control over their data and choice over the location where that data is stored.
- We support cross-border free flow of data and would not want to see regulation unduly limit this beyond legitimate security and privacy concerns consistent with liberal norms and limitations as outlined in GATS Art 14 and 14bis.
- All types of barriers to cross-border data service provision should be addressed by international norms and should look also at network access bottlenecks that – as outlined in the previous section – hamper the provision of ICT business services.

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### **BT's trade policy priorities:**

- Better open public procurement regimes in key markets, incl. at sub-federal level.
- Trade agreements that establish frameworks for forward-looking norms to help capture global market share in innovative new areas.
- Trade agreements that avoid forced data localisation and secure the free and open cross-border flow of data vital to the functioning of all areas of commerce albeit respecting EU data protection norms.
- Consistent, pro-competitive regulation of business grade whole sale access to telecommunications networks in case of bottlenecks. This is necessary in order to provide cross-border ICT business services over cross-border WANs. Regulations should be transparent and non-discriminatory, i.e. based on the principle of equivalence of inputs. Such rules would build upon existing WTO norms for the sector and bring them in line with the needs of the global digital economy.
- Elimination of foreign ownership restrictions in the telecommunications and ICT services sector as well as norms for good and transparent regulatory practices and licensing procedures.
- Swift implementation of the Bali trade facilitation agreement aimed at simplify customs procedures and reducing other administrative barriers to trade. Such barriers hamper the provision of BT's own business ICT services when IT equipment cannot be shipped and delivered on time.
- Trade agreements that cover services, in particular with a focus on a cluster of business services inputs (e.g. logistics, finance, transport, ICT, but also accountancy and law) that are key for the facilitation of global value chain.
- TiSA (which hopefully can be resumed) and the WTO are the most suitable fora to achieve global rules for such business services. This could take the form of a "GVC Facilitation Agreement in Services". In the absence of progress at the multi- or plurilateral levels, bilateral agreements can set the pace.

### **Brexit and Trade**

- The trade architecture is complex, with bilateral, sectoral, multi- and plurilateral deals. Due to structural changes in the global economy, deal making at the multilateral level is becoming ever-more complex and difficult.
- The only trade agreement the UK currently has is its membership in the EU. All other trade agreements the UK is involved in is via its EU membership.
- The UK should be pragmatic in novating existing EU deals where possible, and in pursuing new deals beyond the 2019 exit timeframe. A full analysis and consultation should be carried out of different trade options, and an assessment of the scope to accede to existing or planned major EU and WTO trade deals such as TiSA when UK leaves the EU.
- The UK Government needs to focus as much on trade in services as it focuses on trade in goods, given the UK economic landscape.
- Many trade agreements include chapters on ICT and e-commerce are different from or contradict earlier agreements, and it will be important to pick the most advanced ones when aiming to use them as a baseline for future deals.
- In a post Brexit EU/UK trade deal, we seek regulatory alignment to keep the UK close to the EU in an open and non-discriminatory way, especially in services and around the Digital Single Market and to ensure necessary checks and balances deriving from the EU communications framework are fully maintained in the UK.
- Negotiating a post-Brexit trade agreement with the EU will take time and a pragmatic approach to an interim solution to avoid harm to the economy is required.