March 2, 2001

Fact Sheet:

Telecommunications Working Group Meeting
Under the Enhanced Initiative on Deregulation and Competition Policy
Tokyo, Japan

The Telecommunications Working Group of the Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative) met on March 1 to discuss regulatory reform proposals aimed at promoting greater competition in Japan's telecommunications market. This was the second expert-level meeting during this fourth year of the Enhanced Initiative, following a December 2000 meeting in Washington, D.C. The U.S. Delegation was led by USTR Director for Telecommunications Affairs Jonathan McHale and included officials from the Departments of Commerce and State, the American Embassy in Tokyo, and the Federal Communications Commission (FCC) -- the agency that regulates the U.S. telecommunications sector.

The Japanese Delegation was chaired jointly by the Ministry of Foreign Affairs and the Ministry of Public Management, Home Affairs and Posts and Telecommunications (MPHPT) and included representatives from the Ministry of Economy, Trade and Industry (METI), the Ministry of Land, Infrastructure and Transport (MLIT) and the Japan Fair Trade Commission (JFTC).

The Enhanced Initiative seeks to identify and reduce regulatory impediments to the Japanese market in ways that increase market-access opportunities for U.S. firms while simultaneously stimulating economic growth in Japan. The primary objective of this Working Group is to help create a competitive market in Japan conducive to higher quality, more innovative, and less expensive telecommunications services for the end user. Though encouraged by steps Japan has taken thus far to promote competition in this key sector, market-access barriers remain. The United States intends to conclude a joint status report with Japan under the Enhanced Initiative later this year that will detail measures designed to achieve greater liberalization in this sector.

Major points raised by the United States in the Working Group included:

Independent regulator: A competitive market requires a regulator that is free from political pressure and able to take vigorous enforcement action against competitive abuses. MPHPT's ambitious industrial policy goals ("fiber to the home," for example) coupled with the Japanese Government's ownership of the national carrier (NTT) raise substantial conflict-of-interest concerns -- making it all the more important that Japan have an independent regulator. The recent enforcement action taken by the JFTC regarding access to NTT facilities for collocation represents a very important step toward ensuring competition in the market and once again illustrates the

importance of establishing a truly independent regulatory authority that can exercise oversight and take the necessary measures to safeguard competition in this sector.

Dominant Carrier Regulation: The United States was encouraged by efforts underway by MPHPT to broaden the applicability of dominant carrier regulation. Japan's existing safeguards do not adequately guard against a range of potentially anti-competitive abuses by NTT East and West: "price squeeze," which forecloses competition; and inhibiting access to rights of way, conduits and collocation through delays and anti-competitive pricing. As Japan considers incentive regulation, we have encouraged Japan to develop clear, competitive metrics by which NTT East and West can demonstrate effective compliance with dominant carrier safeguards as a condition for expansion into new markets. At the same time, the United States has encouraged Japan to radically streamline the regulatory burdens imposed on competitive carriers relating to license and tariff obligations. The Working Group also discussed the U.S. experience in reducing unnecessary regulation on non-dominant carriers and the enforcement of dominant carrier regulation.

Unbundling: The United States is highly encouraged by Japan's decision to unbundle (that is, provide on a separate basis from other facilities) optical fiber. The proposed rates for unbundled optical fiber, however, are three to four times higher than in the United States, suggesting that they remain too high to stimulate effective competition. The United States has encouraged Japan to reduce rates to more reasonable levels. In addition, the effective use of unbundled fiber will require timely disclosure of the availability of "dark fiber" and timely provisioning, issues under consideration. The United States also encouraged Japan to consider requiring NTT East and West to unbundle network elements closer to the subscriber (the "feeder RT") to prevent planned fiber deployment from foreclosing competitive offering of DSL services. (MPHPT aims to have NTT East and West deploy fiber to the feeder RT (remote terminal) for 50 percent of subscribers by 2005; if RT unbundling is not required, competitive DSL services for these subscribers may not be possible.)

Improved Rights of Way Regime: The United States welcomed Japan's initiative to develop rights-of-way guidelines aimed at facilitating faster, cheaper access to roads, tunnels, poles and other resources needed for laying telecommunications lines. The United States recommended that Japan develop more effective rules for ensuring that dominant telecommunications companies and other utilities make their rights-of-way available at cost-based rates.