The Trans-Pacific Partnership and Canada's Telecommunications Industry

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Briefing Note

Unifor and the Telecommunications Industry

Unifor is Canada's largest union in the telecommunications sector, representing more than 26,000 workers in all regions of the country. Unifor members work at companies such as Bell Canada and its subsidiaries (including Bell Aliant, Expertech, Bell Technical Solutions), SaskTel, MTS, Allstream and others.

Trouble with the TPP

The TPP was negotiated behind closed doors, with no analysis of its impacts on Canada's economy and without any meaningful input from the public. Recent studies predict the TPP will have a negative effect on Canada's economy. Even in best case scenarios, the TPP will have little to no impact at all. In either case, the risks to Canada's public policy and decision-making appear to be real and raise serious concerns for Canadians on a number of fronts. For instance:

- The inclusion of investor-state dispute settlement (ISDS) will grant extraordinary and extra-judicial rights to private corporations, allowing them to sue governments over public policy decisions;
- A "negative-list" approach that opens markets to foreign investors and all service suppliers, unless explicitly excluded from the deal, promotes permanent deregulation and limits government decision-making over the long term;
- Patent reforms and new digital policy rules risk everything from higher Canadian drug prices to data privacy.

The Impact of TPP on Canada's Telecommunications Industry

The inclusion of telecommunications services under trade treaties has long been a contentious issue. The telecommunications industry is not only a highly sophisticated, and technologically-intensive sector of the economy (which fuels productivity and can promote good-quality jobs), it has implications for Canada's national security – as telecom firms gain access to a copious amount of consumer (and citizen) data and other information that is highly sought after by marketers and/or security officials. The inclusion of telecommunications services in trade agreements is not uncommon (it forms Chapter 13 of the NAFTA, in fact) – but as telecommunications services continue to expand, and as foreign service providers continue to explore new markets for investment, greater strategic attention and care is paid to it.

Under the TPP, member states have agreed that access to telecommunications facilities, the allocation of spectrum frequencies as well as the establishment of investment provisions will incorporate "non-discriminatory" terms and conditions. At the same time, government officials claim that Canada has maintained the rules governing foreign investment in telecom – most notably, restrictions on foreign ownership under the Telecommunications Act which mandate carriers that hold more than a 10% industry market share must be at least 80% Canadian-owned.

Canada's current foreign ownership rules under the TPP are considered 'non-conforming measures' (i.e. a law or regulation that does not conform to the spirit of the trade pact, but is still permissible since it already exists), and identified in the list of Annex I reservations. However, any attempt to strengthen those existing foreign ownership rules may be subject to

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Unifor is urging federal Members of Parliament not to ratify the Trans-Pacific Partnership agreement. Canada's approach to global trade and investment must serve to enhance our collective economic and social development, and must be guided by progressive, fair trade principles.

challenge as unnecessary or discriminatory under the National Treatment provisions in the TPP Investment chapter – imposing a 'ratchet' effect of greater (not less) deregulation in the industry.

There is further uncertainty over how TPP rules might limit Industry Canada's ability to establish and apply spectrum and frequency management policies, including the ability to allocate frequency bands. In the past, Industry Canada has set aside particular blocks of frequency for new entrants in a spectrum auction (referred to as preferential spectrum allocation). Article 13.19 of the TPP appears to preserve the right of parties to set such spectrum management policies, but in a manner that is still consistent with other parts of the accord – a vague provision that provides minimal assurances for industry policy-makers.

Protecting Canada's Telecommunications Industry

The TPP is a bad deal for Canadians, including telecommunications workers. Unifor believes that:

1. Nothing in the TPP should limit or prevent Canada from establishing rules restricting the foreign ownership of telecommunication services, whether those rules exist now or shall be applied in future; and
2. Greater clarity is desperately needed on the policy flexibility afforded to Industry Canada under the TPP and its ability to set spectrum allocation policies that are in the public interest.

The Trans-Pacific Partnership treaty is **fundamentally-flawed** and a **missed opportunity** for Canada to facilitate global trade that is fair, ethical and of benefit to all. Unifor urges the federal government not to ratify the TPP.

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