



To: The Ministry of Information and Communications Technology (MinTIC) and the Communications Regulatory Commission (CRC)

Re: U.S. Chamber of Commerce's Submission on Public Consultation for Enhancing Colombia's Digital Ecosystem through OTT Services

Date: February 10, 2025

Submitted via email to estudioott2024@crcom.gov.co and proyectos.normativos.dicom@mintic.gov.co

The U.S. Chamber of Commerce, through its Center for Global Regulatory Cooperation (GRC) and U.S.-Colombia Business Council (USCBC), appreciates the opportunity to provide input on the important topics of network fees and local content requirements for over-the-top (OTT) services.

The U.S.-Colombia commercial relationship is a cornerstone of economic growth and regional stability in the Western Hemisphere. Built on shared democratic values and a robust trade partnership, the bilateral relationship has flourished under the U.S.-Colombia Trade Promotion Agreement (TPA). The United States remains Colombia's principal trade and investment partner, representing 34% of Colombia's total trade. U.S. foreign direct investment in Colombia exceeds USD \$8 billion, with more than 600 U.S.-owned firms contributing over 107,000 direct jobs and 350,000 indirect jobs to the country.

This partnership has not only strengthened economic ties but also fostered collaboration in critical areas such as energy transition, healthcare, and digital innovation. As Colombia positions itself as a regional commercial hub, it is imperative to maintain policies that encourage stability, transparency, and predictability for investors. Public-private cooperation has been a key driver of success in the bilateral relationship, and continued engagement will ensure mutual prosperity and growth.

As the voice of the U.S. private sector, we value the opportunity to engage in dialogue with the Government of Colombia on policies that impact the global digital economy. We recognize the importance of fostering a robust and sustainable digital ecosystem and hope to provide constructive insights on these issues.

Network Fees

We understand that the Government of Colombia is soliciting information about OTT services with a potential interest in the creation of a "network fee." There are a wide range of companies with varying business models that qualify as an OTT service. Understanding these nuances is important to guide policy considerations. It is in the interest of all parties that Colombia and its citizens enjoy quality telecommunications infrastructure. As the government of Colombia proceeds with its analysis, we wish to convey our belief that such fees could have unintended consequences for consumers, innovation, and international trade. We have outlined these concerns below.

First, it is important to recognize the reciprocal relationship between telecom infrastructure and OTT services. Consumers demand high-quality OTT services, which encourages subscriptions to higher-quality internet services. OTT services require telecommunications networks to deliver content to their customers. This

mutually beneficial relationship has been a key driver of digital transformation and economic growth worldwide.

Second, OTT services providers play a significant, often overlooked role in funding telecommunications infrastructure. These companies invest billions of dollars globally in data centers, submarine cables, and content delivery networks (CDNs) to ensure efficient delivery of their services to Colombian customers. Specifically, U.S. content providers have spent USD \$883 billion over the 2011-2021 period on global digital infrastructure, including hosting, transport, and delivery networks — reaching an average annual investment of USD \$120 billion per year in 2018-2021.

These internet infrastructure investments have been focused on three main areas: hosting (i.e. data centers), transport (i.e. submarine and terrestrial cables), and delivery (i.e. peering and caching). This infrastructure spans tens of thousands of miles around the globe and is critical to delivering online content and services to Colombia. Additionally, OTTs often enter into private contractual arrangements with telecommunication providers that are mutually beneficial. Given these substantial contributions, OTT services providers cannot be viewed as having not contributed to infrastructure.

Third, the Chamber cautions against imposing fees that target foreign companies. Such measures could violate international trade commitments, discouraging foreign investment and innovation in Colombia. Policies that single out foreign OTT service providers risk creating trade tensions and undermining Colombia's reputation as an open and inviting market.

Finally, it is important to consider the impact of network fees on consumers. Increased costs, whether for OTT service providers or telecoms, will ultimately be passed on to end users. Both Private citizens and micro, small, and medium-sized enterprises (MSMEs) that rely on digital services to access goods and services, reach new markets, and sell their products will see costs increase. These higher costs could deter investment in new technologies and services, slowing innovation and economic growth. We urge the Government of Colombia to carefully weigh these potential consequences before moving forward with any network fee proposals.

Local Content Requirements

In addition to network fees, we understand that Colombia is exploring policies to mandate local content quotas for OTT streaming services. Your public consultation cites Canada as an example of a potential model to follow for supporting the creation of local content. While we support the goal of promoting local culture and content, we believe that mandatory quotas or similar regulations would have unintended negative effects on the digital economy and consumer choice.

Specifically, the Chamber, along with numerous other organizations, has been vocal in our opposition to Canada's approach.¹ In June 2024, we publicly opposed the Canadian Radio-television and Telecommunications Commission's (CRTC) decision to impose a 5% revenue levy on U.S. streaming providers.

We believe Canada's decision violated international trade agreements, principles of sound tax policy, and basic fairness. It discriminates against U.S. companies by targeting a specific industry and business model while simultaneously excluding that industry from accessing the funds it supports. Moreover, Canada's legal framework fails to recognize the significant investments U.S. companies have made Canada's creative sector.

¹ <https://www.uschamber.com/international/u-s-chamber-condemns-crtcs-decision-on-u-s-streaming-services-citing-trade-agreement-violations-and-investment-impact>

Ultimately, Canada’s approach risks harming U.S.-Canada trade relations, reducing investment in Canada, and prompting retaliatory measures from the U.S. We have urged the CRTC to reconsider and adopt non-discriminatory measures that support Canadian cultural initiatives without undermining international obligations or stifling innovation.

For the above reasons, we would strongly caution Colombia from following Canada down a path of local content requirements. Instead, we believe – to Colombia’s credit – that you have already demonstrated success in attracting foreign investment in your creative industries through competitive incentives and partnerships with global content providers. For example, Colombia’s existing policies have led to a significant increase in exports of audiovisual services and digital content, growing by an average of 29% over the past seven years. These achievements highlight the effectiveness of collaboration over regulation and demonstrate that local content requirements are neither necessary nor could undermine the successes you have already achieved.

We encourage the Government of Colombia to continue to explore alternative approaches to encourage voluntary investment in local content without distorting the market, imposing new fees, or creating other regulatory burdens.

Conclusion

The U.S. Chamber appreciates the opportunity to share our perspective on these important issues and hopes that our insights will contribute to a balanced and forward-looking policy framework. We stand ready to collaborate with MinTIC and the CRC to support Colombia’s digital and innovation ecosystems, while continuing to strengthen our bilateral relationship and advancing our shared goals of economic prosperity. Should you have any questions or require further information, please contact USCBC Executive Director Cesar A. Vence at cvence@uschamber.com or +1 (202) 450-9593.

Sincerely,



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