

existing bilateral correspondency model. Restricting the ability of U.S. carriers to enter into such arrangements would hinder, rather than further, U.S. carriers ability to compete in a global marketplace and, ultimately, would harm U.S. customers. The Commission's initial decision therefore should be adopted.<sup>96</sup>

#### **VII. THE COMMISSION SHOULD RETAIN ITS DEFINITION OF FACILITIES-BASED CARRIER**

AT&T's Comments demonstrated that the Commission must retain its existing definition of facilities-based carrier in order to avoid vitiating its "equivalency" test under the *International Resale Order*.<sup>97</sup> BTNA and MCI also agree that the Commission should codify its existing definition. As MCI observes:

IDB's [maximum allowable interest] proposal would allow carriers to interconnect foreign-leased circuits with the U.S. public switched network without demonstrating that the foreign country provides equivalent resale opportunities to U.S. carriers. Thus, IDB's proposal would aggravate current settlement deficits and hamper efforts to encourage foreign administrations to open their markets to facilities-based competition.

The Commission's criticisms of IDB's proposal are well-founded. The fundamental goal in this proceeding -- opening foreign markets to competition by U.S. carriers -- would be undermined by revising the definition of facilities-based carrier, as IDB proposes.<sup>98</sup>

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<sup>96</sup> As AT&T established in its Comments, the Commission correctly excludes U.S. carrier investments in foreign carriers from the proposed test. Such investments do not create incentives for foreign carriers to leverage their monopoly power into the U.S. market, and applying the proposed standard to such arrangements would hamper efforts by U.S. carriers to inject competition into foreign markets.

<sup>97</sup> *Regulation of International Accounting Rates*, 7 FCC Rcd. 559 (1991).

<sup>98</sup> MCI Comments at 17-18.

In the *International Resale Order*, the Commission determined that the harm to the U.S. public interest that would be caused by one-way provision of switched services into the U.S. over international private lines required that private line resale authority not be granted unless equivalent opportunities for U.S. carriers had been demonstrated.

Reclassifying foreign resellers as facilities-based carriers, as IDB proposes, would serve no purpose other than to allow foreign customers to receive the benefits of lower-priced switched services into the United States over resold international private lines at the expense of U.S. customers. Even if these newly-designated facilities-based carriers were to implement accounting rates with their U.S. facilities-based affiliates, the payment of such rates would be no more than a paper transaction and would not provide any greater opportunity for U.S. carriers to terminate traffic in the foreign country over international private lines. Such a result would violate the basic tenet of the “equivalency” test and should not be allowed.

Accordingly, in order to maintain the viability of the *International Resale Order*'s protections against one-way resale, the Commission should codify its existing definition of “facilities-based” carrier.

## **VIII. CONCLUSION**

The Commission's effective market access standard for foreign carrier entry will advance the U.S. public interest by promoting global competition for communications services, by preventing anticompetitive conduct against U.S. carriers and their customers

by foreign carriers leveraging their market power, and by encouraging other governments to open their telecommunications markets. AT&T endorses the Commission's effective market access standard and urges its immediate implementation

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I, Eleanor Parris, do hereby certify that a copy of AT&T Corp.'s Comments, dated May 12, 1995, has been sent by United States mail, postage prepaid, to the parties listed on the attached service list.

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