

ensure that foreign carriers deliver the type of high quality, seamless capability necessary to support U.S. carrier global services, and thereby provide a legitimate means to extend and promote U.S. carrier global offers. Moreover, until U.S. carriers obtain effective market access in foreign countries, such services can be delivered only through arrangements with foreign carriers.

Other commenters agree that non-equity, non-exclusive arrangements should not be subject to an effective market access standard. Citicorp endorses the Commission's decision to limit its effective market access standard to potential entrants affiliated with a foreign carrier because, by doing so, "the Commission will promote the formation of joint ventures and nonexclusive co-marketing arrangements. Such arrangements bring significant benefits to international telecommunications users through 'one-stop shopping,' seamless interconnection, superior quality service and the like."<sup>91</sup> AmericaTel similarly supports the Commission's decision "not to include within the definition of 'affiliate' non-equity business relationships between carriers, and most co-marketing arrangements."<sup>92</sup>

Some commenters, however, attack AT&T's participation in WorldPartners. These commenters paint a picture of WorldPartners that suits their purposes, but has no basis in reality. As AT&T established in its Comments, the members of WorldPartners do

---

<sup>91</sup> Citicorp Comments at 3.

<sup>92</sup> AmericaTel Comments at 13. AmericaTel believes that any agreement a U.S. carrier/applicant enters into with a foreign carrier should be filed with the Commission, provided there is a correspondent or ownership relationship between the two.

not have equity interests in AT&T, and do not derive revenue from the provision of AT&T's services in the U.S. In the same manner, AT&T does not derive revenue from a WorldPartners member's provision of services in its home country. WorldPartners merely provides a set of services standards by which the individual members can meet the needs of their customers for global seamless services. WorldPartners thus is a non-exclusive, non-equity arrangement of the sort the Commission properly has determined should not be subject to an effective market access standard. The degree of non-exclusivity and independence among WorldPartners members is corroborated by the Comments filed by TLD in this proceeding. One need but read TLD's pleading to realize that AT&T and Telefonica, a proposed member of Unisource, which is a member of WorldPartners, do not share the common goal envisioned by these conspiracy buffs.<sup>93</sup> Additional confirmation that WorldPartners is not the global monolith portrayed by these commenters is provided by the fact that many of the members of WorldPartners are involved in commercial dealings with the very carriers who attack this bilateral, correspondent arrangement. For example, Singapore Telecom, a founding partner of WorldPartners, has made arrangements with BT/MCI's Concert joint venture to deliver Concert services in Singapore.

---

<sup>93</sup> Contrary to one of TLD's many assertions (TLD Comments at 53 n.122), AT&T complied fully with Section 63.11 of the Commission's Rules by submitting the required notification to the Commission on June 7, 1993, and supplementing this notification on June 24, 1993.

The lack of any principled basis for application of the effective market access test to WorldPartners is evidenced by the positions of ACC and MFSI, until now two of the leading opponents of what they term “mirror reciprocity.” MFSI, for example, proposes that any agreement between a U.S. carrier with a “substantial share” of U.S. international traffic -- apparently anyone with more market share than MFSI -- would be required to obtain Commission approval before implementing any agreement with a foreign carrier. As a condition of such approval, MFSI would require the U.S. carrier to ensure that MFSI obtained an operating agreement and that MFSI obtained foreign carrier half circuits at cost-based rates. If the U.S. carrier could not successfully negotiate such terms for MFSI, the U.S. carrier would be barred from providing end-to-end services on the route.<sup>94</sup>

ACC likewise urges the Commission to prohibit “major” U.S. carriers (*i.e.*, anyone but ACC) from participating in an “alliance”, including non-equity, non-exclusive arrangements, unless the U.S. carrier demonstrates that the country is “sufficiently liberalized” for U.S. carriers, that correspondent agreements are freely available to all U.S.

---

<sup>94</sup> MFSI Comments at 3-4, 9 n.8. MFSI argues that it needs such favored treatment to compete in other countries because many countries lack “liberalized restrictions on competitive entry, nondiscriminatory cost accounting and interconnection regulatory regimes; and/or regulations intended to allow the regulator to discover, prevent, and remedy cross-subsidization and anticompetitive leveraging.” *Id.* at 7. However, ACC and MFSI have argued vehemently in their private line resale applications that foreign countries, such as France and Germany, offer boundless opportunities for U.S. carriers to compete. When AT&T points out similar problems in a foreign country, ACC and MFSI accuse AT&T of seeking “mirror reciprocity.” Yet, despite its opposition to any form of “mirror reciprocity”, MFSI requests the Commission in this proceeding to impose a 20% ownership limitation on non-radio facilities in the U.S. to mirror the foreign ownership restriction in Canada. *Id.* at 13.

carriers, that all negotiated accounting rates will be made available simultaneously to all U.S. carriers, and unless the U.S. carrier agrees to the BT/MCI conditions.

Adoption of these proposals would hurt, not promote, competition. Leaving aside the obvious problem of what constitutes an alliance -- ACC's proposal would appear to prohibit any carrier larger than ACC from implementing or continuing a traditional correspondent arrangement (which is a non-exclusive, non-equity arrangement) with a foreign carrier -- ACC's and MFSI's proposals would remove any incentive for U.S. carriers to improve the services they provide their U.S. customers because every other U.S. carrier would automatically obtain the benefit of such innovation and effort. While these carriers argue that they want the opportunity to compete, what they really want is a guarantee that they will succeed in foreign markets by riding on the efforts of others. They have not established on the record any need to adopt their proposals, and their proposals therefore should be rejected.<sup>95</sup>

The Commission chose not to include non-equity, non-exclusive arrangements within its effective market access test because to do so would constrain the ability of U.S. carriers to introduce innovative services throughout the world in the context of the

---

<sup>95</sup> ACC and MFSI also request the Commission to impose dominant treatment on AT&T, including 45-day tariff filing requirements and the requirement to obtain Commission approval for additional international circuits. ACC Comments at \_\_\_; MFSI Comments at 10-12. AT&T currently is regulated as dominant for IMTS. As AT&T has recently shown, however, it has no market power in any segment of the interexchange market and therefore should not be subject to dominant carrier regulation. See Letter from Gerald Salemme to Kathleen Wallman, Chief Common Carrier Bureau, Federal Communications Commission, in CC Docket No. 79-252, dated April 24, 1995.

existing bilateral correspondence 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>

---

<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.

Respectfully submitted,

AT&T CORP.

By Stephen C. Garavito

Judith A. Maynes  
Elaine R. McHale  
Stephen C. Garavito  
James J. R. Talbot

Its Attorneys

295 N. Maple Avenue  
Room 3235A3  
Basking Ridge, NJ 07920  
(908) 221-8100

Dated: May 12, 1995

CERTIFICATE OF SERVICE

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.

*Eleanor Parris*  

---

Eleanor Parris

Dated: May 12, 1995

Dr. T. P. Quinn, Deputy Asst.  
Secretary of Defense  
(Strategic & Tactical C3)  
OASD (C3I)  
Pentagon, Room 3E160  
Washington, DC 20301-3040

John Grimes, Deputy Asst.  
Secretary of Defense  
(Defense YC3)  
Pentagon, Room 3E194  
Washington, DC 20301-3040

Carl Wayne Smith, Esq.  
Code AR Defense Information  
Systems Agency  
701 South Courthouse Road  
Arlington, VA 22204

Office of General Counsel  
Nat'l. Security Agency  
9800 Savage Road  
Fort Meade, MD 20755-6000

Keith H. Fagan  
COMSAT Communications  
6560 Rockspring Drive  
Bethesda, MD 20817

Gail Polivy, Esq.  
GTE Hawaiian Telephone Company  
1850 M Street, N.W.  
Suite 1200  
Washington, DC 20036

Charles A. Husman  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 6312  
2201 C Street, N.W.  
Washington, DC 20520

Richard Beaird  
Bureau of International  
Communications and  
Information Policy  
Department of State  
4th Floor  
2201 C Street, N.W.  
Washington, DC 20520-1428

Michael Fitch  
Bureau of Int'l Communications  
and Information Policy  
Department of State  
4th Floor  
2201 C Street, N.W.  
Washington, D.C. 20520

Thomas Sugrue  
Deputy Assistant Secretary  
for Communications and  
Information  
NTIA  
Department of Commerce  
Room 4898  
14th St. & Constitution, N.W.  
Washington, DC 20230

Robert A. Lutkoski  
Counselor  
Bureau of Int'l Communications  
and Information Policy  
Department of State  
Room 5310  
2201 C Street, N.W.  
Washington, D.C. 20520

Robert S. Koppel  
VP - Legal & Regulatory  
Affairs  
IDB Worldcom  
15245 Shady Grove Road  
Suite 460  
Rockville, MD 20850-3222

John Dalton  
 Secretary of the Navy  
 Office of the Secretary  
 Department of the Navy  
 The Pentagon  
 Washington, D.C. 20310

Suzanne Settle  
 Senior Policy Advisor  
 NTIA  
 Department of Commerce  
 Room 4701  
 14th St. & Constitution, N.W.  
 Washington, D.C. 20230

Carol Darr  
 Associate Administrator  
 Office of International Affairs  
 NTIA  
 Department of Commerce  
 Room 4720  
 14th St. & Constitution, N.W.  
 Washington, D.C. 20230

Vonya B. McCann  
 Ambassador  
 Department of State  
 4th Floor/CIP  
 2201 C Street, N.W.  
 Washington, D.C. 20520

Leon M. Kestenbaum, Esq.  
 Michael B. Fingerhut, Esq.  
 Sprint Corporation  
 1850 M Street, N.W.  
 11th Floor  
 Washington, D.C. 20036

Carl Willner, Esq.  
 Antitrust Division  
 U.S. Department of Justice  
 555 4th Street, N.W.  
 Washington, D.C. 20001

Helen E. Disenhaus, Esq.  
 Michael C. Wu, Esq.  
 SWIDLER & BERLIN, Chartered  
 3000 K Street, N.W.  
 Suite 300  
 Washington, D.C. 20007

John L. Bartlett, Esq.  
 WILEY, REIN & FIELDING  
 1776 K Street, N.W.  
 Washington, D.C. 20006

Normal P. Leventhal, Esq.  
 Paul R. Rodriguez, Esq.  
 Leventhal, Senter & Lerman  
 2000 K Street, N.W.  
 Suite 600  
 Washington, D.C. 20006-1809

Frank Michael Panek, Esq.  
 Ameritech  
 Room 4H84  
 2000 West Ameritech Center Drive  
 Hoffman Estates, IL 60196-1025

Carl W. Northrop, Esq.  
 Paige Anderson, Esq.  
 Bryan Cave  
 700 13th Street, N.W.  
 Suite 700  
 Washington, D.C. 20005

Professor Jonathan D. Aronson  
 School of International Relations  
 and Annenberg School For  
 Communication  
 University of Southern California  
 Los Angeles, CA 90089-0043

Joel S. Winnik, Esq.  
 Julie T. Barton, Esq.  
 HOGAN & HARTSON L.L.P.  
 Columbia Square  
 555 Thirteenth Street, N.W.  
 Washington, D.C. 20004-1109

Philip V. Permut, Esq.  
 Jeffrey S. Linder, Esq.  
 WILEY, REIN & FIELDING  
 1776 K Street, N.W.  
 Washington, D.C. 20006

Andrea D. Williams, Esq.  
 CELLULAR TELECOMMUNICATIONS  
 INDUSTRY ASSOCIATION  
 1250 Connecticut Avenue, N.W.  
 Suite 200  
 Washington, D.C. 20036

Michael Nugent, Esq.  
 Citibank, N.A.  
 425 Park Avenue  
 New York, N.Y. 10043

Robert E. Conn, Esq.  
 Shaw, Pittman, Potts & Trowbridge  
 2300 N Street, N.W.  
 Washington, D.C. 20037

Joseph A. Godles, Esq.  
 W. Kenneth Ferree, Esq.  
 GOLDBERG, GODLES, WIENER & WRIGHT  
 1229 Nineteenth Street, N.W.  
 Washington, D.C. 20036

Werner J. Hein, Esq.  
 Alan E. Untereiner, Esq.  
 Julian P. Gehman, Esq.  
 MAYER, BROWN & PLATT  
 2000 Pennsylvania Avenue  
 Washington, D.C. 20006

Le Directeur General  
 Direction Generale des Postes  
 et Telecommunications et du  
 Commerce Exteneur  
 Ministere de l'Industrie, des  
 Posts et Telecommunications  
 Paris, France

Judith D. O'Neill, Esq.  
 Janet Hernandez, Esq.  
 Reid & Priest  
 701 Pennsylvania Avenue, N.W.  
 Suite 800  
 Washington, D.C. 20004

Leonard D. Eichel,  
 Director, Regulatory Affairs  
 FONOROLA Corp.  
 20 Skymeadow Road  
 Suffern, NY 10901

William S. Reyner, Jr., Esq.  
 Mace J. Rosenstein, Esq.  
 K. Michele Walters, Esq.  
 HOGAN & HARTSON L.L.P  
 Columbia Square  
 555 Thirteenth Street, N.W.  
 Washington, D.C. 20004

Jeffrey P. Cunard, Esq.  
 Lothar A. Kneifel, Esq.  
 Debevoise & Plimpton  
 555 13th Street, N.W.  
 Suite 1100E  
 Washington, D.C. 20004

Gail L. Polivy, Esq.  
 GTE Service Corporation  
 1850 M Street N.W.  
 Suite 1200  
 Washington, D.C. 20036

Robert J. Aamoth  
 Reed Smith Shaw & McClay  
 1200 18th Street, N.W.  
 Washington, D.C. 20036

Russell H. Fox, Esq.  
 Lauren S. Drake, Esq.  
 GARDNER, CARTON & DOUGLAS  
 1301 K Street, N.W.  
 Suite 900, East Tower  
 Washington, D.C. 20005

Andrew D. Lipman, Esq.  
 Margaret M. Charles, Esq.  
 SWIDLER & BERLIN, CHARTERED  
 3000 K Street, N.W.  
 Suite 300  
 Washington, D.C. 20007

John T. Scott, III  
 William D. Wallace  
 CROWELL & MORING  
 1001 Pennsylvania Avenue N.W.  
 Washington, D.C. 20004

Leslie A. Taylor, Esq.  
 LESLIE TAYLOR ASSOCIATES  
 6800 Carlynn Court  
 Bethesda, MD 20817

John M. Scorce, Esq.  
 Donald J. Elardo, Esq.  
 1801 Pennsylvania Ave, N.W.  
 Washington, D.C. 20006

David Honig, Esq.  
 Minority Media and  
 Telecommunications Council  
 3636 16th Street N.W.  
 Suite AG-58  
 Washington, D.C. 20010

Bonnie J. K. Richardson, Esq.  
 MOTION PICTURE ASSOCIATION  
 OF AMERICA, INC.  
 1600 Eye Street, N.W.  
 Washington, D.C. 20006

Michael D. Kennedy, Esq.  
 Director, Regulatory Relations  
 Motorola, Inc.  
 1350 I Street, N.W.  
 Suite 400  
 Washington, D.C. 20005

Richard Cotton, Esq.  
 Ellen Shaw Agress, Esq.  
 National Broadcasting Company,  
 Inc.  
 30 Rockefeller Plaza  
 New York, New York 10112

John K. Hane, Esq.  
 National Broadcasting Company,  
 Inc.  
 1299 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20004

Phyllis E. Hartsock, Esq.  
 Joanna S. Lowry, Esq.  
 National Telecommunications  
 and Information Administration  
 U.S. Department of Commerce  
 Rom 4713  
 14th & Constitution Ave., N.W.  
 Washington, D.C. 20554

Edward R. Wholl, Esq.  
 Jacqueline E. Holmes Nethersole,  
 Esq.  
 NYNEX Corporation  
 1111 Westchester Avenue  
 White Plains, 10604

Thomas J. Keller, Esq.  
 VERNER, LIIPFERT, BERNHARD,  
 McPHERSON AND HAND, CHARTERED  
 901 15TH Street, N.W.  
 Suite 700  
 Washington, D.C. 20005

Richard H. Shay, Esq.  
 April McClain-Delaney, Esq.  
 Orion Network Systems, Inc.  
 2440 Research Boulevard  
 Suite 400  
 Rockville, Maryland 20850

Joseph A. Godles, Esq.  
 W. Kenneth Ferree, Esq.  
 GOLDBERG, GODLES, WIENER & WRIGHT  
 1229 Nineteenth Street, N.W.  
 Washington, D.C. 20036

William J. Franklin, Esq.  
 WILLIAM J. FRANKLIN, CHARTERED  
 1919 Pennsylvania Avenue, N.W.  
 Suite 300  
 Washington, D.C. 20006-3404

James M. Tobin, Esq.  
 Cheryl A. Tritt, Esq.  
 MORRISON & FOERSTER  
 2000 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20006

J. Gregory Sidak, Esq.  
1150 Seventeenth Street, N.W.  
Eleventh Floor  
Washington, D.C. 20036

Charles C. Hunter, Esq.  
Hunter & Mow, P.C.  
1620 I Street, N.W.  
Suite 701  
Washington, D.C. 20006

Albert Halprin, Esq.  
Stephen L. Goodman, Esq.  
Halprin, Temple & Goodman  
1100 New York Ave., N.W.  
Suite 650 East  
Washington, D.C. 20005

Frank R. Jazzo, Esq.  
Charles H. Kennedy, Esq.  
M. Veronica Pastor, Esq.  
Fletcher, Heald & Hildreth,  
P.L.C.  
1300 North 17th Street  
11th Floor  
Rosslyn, VA 22209

Robert E. Conn, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street N.W.  
Washington, D.C. 20037

Alfred M. Mamlet, Esq.  
STEPTOE & JOHNSON  
1330 Connecticut Ave., N.W.  
Washington, D.C. 20036

Clyde V. Prestowitz  
President, Economic Strategy  
Institute  
1401 H Street, N.W.  
Suite 750  
Washington, D.C. 20005

J. M. Hammond  
First Secretary  
Environment, Energy and  
Telecommunications  
British Embassy  
3100 Massachusetts Ave, N.W.  
Washington, D.C. 20036

Mr. Thomas B. Patton  
President  
Organization for International  
Investment  
1747 Pennsylvania Ave., N.W.  
Suite 704  
Washington, D.C. 20006