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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FCC MAIL ROOM

In the Matter of )

International Settlement Rates )

) IB Docket No. 96-261  
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To: The Commission

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**COMMENTS OF  
LATTELEKOM SIA**

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February 7, 1997

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Lattelekom

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To: Office of the Secretary,  
Federal Communications Commission,  
Room 222,  
1919 M Street, NW  
Washington, DC 20554

**Response to the FCC's Notice of Proposed Rulemaking (NPRM) in the matter of International Settlement Rates**

*Lattelekom SIA* is the legal monopoly carrier for international telephone services in the Republic of Latvia. Lattelekom is granted this status under Republic of Latvia Law "On Telecommunications" dated 04 May 1993, Article 5,4.

Lattelekom SIA objects to the FCC Notice of Proposed Rulemaking in the matter of International Settlement Rates adopted on 19 December 1996.

The following comments are presented in an attempt to persuade the FCC to reevaluate its role in dictating benchmark settlement rates for US carriers' traffic relationships with non-US carriers.

**Increasing net settlements**

We understand the FCC is prompted in to issuing it's NPRM by the increasing level of net settlement made outward from USA. Increasing net settlements are the result of a number of factors which may include traffic volume changes and/or changes in the "direction" of traffic. To appreciate the imbalance, one must understand what factors are combining to alter the traffic balance. It does not automatically follow that increasing net settlements leave US carriers in a negative position, since every new minutes generated outward from USA is accompanied by a customer collection charge (retail or wholesale). Perhaps the key is to consider why accounting imbalances seem to be increasing for a US point of view.

**Why benchmark commercially negotiated settlement rates**

Enforcing US carriers to break commercially negotiated agreements, whether legally supported or not, will certainly undermine the credibility of those US carriers and ultimately prove counter-productive.

The FCC consider that the international payment for traffic minutes that make up the traffic imbalance should be cost-based, but admit that they do not know what costs are in other countries. Indeed, this broad statement does not consider the nature of those traffic minutes. Not all "minutes" are the same. The differentiator is the service or product which has been utilised by the general public.



Services over Public Switched Telephone Network (PSTN) are multifarious. Many value added, premium rate, services are provided by international cooperation. Accounting settlements for these value added services should not necessarily be cost-based. Certainly, the tariffs which customers are charged reflect market, rather than cost-plus, pricing principles.

There are many often repeated reasons for a traffic imbalance between two countries. These reasons are no less valid for their familiarity. The offered explanations range from the macro-economic (eg disposable incomes), to more esoteric arguments (cultural tendency to talk on the phone), but there are other quite specific reasons which directly impact growing imbalances. Two example of such practices are HomeDirect services and CallBack.

### Understanding the Imbalance

The reasons behind an existing imbalance, and particularly increasing imbalances, need to be considered. For instance, a 2 million minute imbalance may be the result of USA sending 200million outward minutes and receiving 198million inward minutes. Equally, the same imbalance may result from sending 3million outward minutes verses just 1million minutes inward. Exactly the same imbalance results in both cases, but a shift in the imbalance (up or down), is likely to have relatively greater consequences in the latter instance.

The imbalance itself needs to be broken-down in to its constituent "types of service". If the imbalance for the latter case above has resulted from, say, 1million minutes of CallBack traffic, we can imagine the potentially harmful impact this has on the foreign carriers' stream revenue profile. The foreign carrier has seen it's customer collection revenue reduce by half (1million minutes vice 2million), and receives instead an accounting settlement of 2million minutes from USA. For its part, the US carrier now receives customer payments for 3million minutes (vice 2million) and makes outpayments on a net 2million minutes (vice zero). This new situation has arisen because of commercial activity. Prices and settlement rates have been commercially negotiated.

While it is generally accepted that accounting rates should better reflect cost (which is agreed within the ITU forum in Recommendation D.140) the option remains for bilaterally agreed divergence from that principle. This is a necessary inclusion which paves the way for innovation and the mutual introduction of advanced or value add services on bilaterally agreed commercial terms. It is not appropriate therefore for FCC to unilaterally dictate that all minutes must be benchmarked, whatever the level of those benchmarks.

Many new value added services are provided over PSTN and are rightly subject to commercial arrangements and agreements. If a US-based carrier wishes to open a Home Direct service with a foreign correspondent, the two parties may well agree to "share" the higher revenues collected by the US carrier by means of agreeing a higher accounting rate for that particular service. More usually, the same accounting rate as for origin-paid IDD is used, but this arrangement may have been acceptable to the foreign partner since any traffic which may be "turned around" by introduction of this new service is adequately compensated by the commercial settlement rate agreement, and does not unduly undermine its overall Telecommunications Policy objectives. It is then extraordinary that the FCC should unilaterally dictate that net settlements should reduce, citing increasing net outpayments, since it has been a conscious and mutual activity which has helped to increase the net settlement in the first place.

With the adoption of the Proposed Rulemaking, the FCC is acting well beyond its area of responsibility as a national regulator, interfering with foreign national entities and impacting the sovereign right of nations to determine, unmolested, their own telecommunications policy.



## **Examples of practices which stimulate growing US net Settlements**

There are also recently introduced practices which increase the imbalance, but which are not agreed to mutually. This escalates the FCC benchmarking proposal in to a highly provocative move.

Any imbalance between USA and a foreign country is a matter of commercial activity and negotiation. The FCC should revisit the issue, reflecting on commercial activities which impact the direction of traffic accounting payments. For example :-

### **HomeDirect**

HomeDirect minutes within an imbalance should be based on straight commercial principles, irrespective of the competitive environment in a foreign country. HomeDirect is clearly a value-add service, governed by market forces, where cost-plus pricing is inappropriate.

### **CallBack between Foreign Country and USA**

CallBack directly between USA and a foreign correspondent, simply turns around the settlement for accounting purposes. This has the potential to significantly impact the imbalance, in that one minute of such CallBack increases the imbalance between the countries by 2 minutes.

The US carriers involved in selling or transporting CallBack traffic, would clearly not engage in such practice if not for the profit motive. Benchmarking payments for such traffic means that US carriers benefit twice; once as the US carrier has skillfully manipulated the calling pattern to its advantage (or it wouldn't do it) and secondly when the FCC uses this increased imbalance as a means for justifying lower per unit payments.

### **CallBack between a foreign country and a 3rd Party, hubbed at USA**

This type of "service" is a complete distortion of the calling pattern between the foreign country and USA, where one call from the foreign correspondent to a 3rd party, becomes two calls from the USA, one of which is back to the original foreign correspondent. Once again, this is a completely commercial arrangement where the US carrier has willingly taken upon itself the delivery costs of two outward calls in return for customer collection revenue, for a "service" in which it would not traditionally have had any involvement.

A "new" imbalance factor has been introduced, resulting from the commercial activities of US carriers, and which is now adding weight to the FCC argument for unilaterally reduced rates. Thus, again the US carrier enjoys a double benefit to the disadvantage of its foreign correspondent.

These are emotive subjects, and our belief is that the FCC should reconsider unilateral action of the kind outlined in the Notice of Proposed Rulemaking.

## **Proper place, proper forum**

The International Telecommunications Union (ITU) based in Geneva is the body where multinational talks can, and do, produce mutually agreed reforms which underpin the ITU cornerstone of ensuring developing quality telecommunications infrastructure in all nations, not simply those with large GDP/Capita. This is the forum in which discussion should center. We regret any member country who unilaterally undertakes to dictate commercial arrangements with partners - the very type of monopolistic power that the US authorities ostensibly seek to eliminate.



## Conclusion

It is stated in the NPRM (clause #5) that the objective of the "Communications Act" is to provide US consumers with reasonably priced, high quality and technologically advanced international services. It is our opinion that unilateral enforcement of settlement rate benchmarks does not ensure the first objective, and will actually work against the other two aims with a large number of developing nations. New value add services, which reverse the settlement direction, will be shunned by developing nations, and development of quality infrastructures will be slow.

We strongly recommend FCC to reconsider its position, and to continue discussion at the international level within the ITU forum.

On behalf of Lattelekom SIA

Chief Executive Officer

07 February 1997

