Deutsche Telekom
North America

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

February 07, 1997

RECEIVED

FEB 7 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: In the Matter of)
International Settlement Rates)

IB Docket No. 96-261

Dear Mr. Caton:

Enclosed for filing please find an original and nine copies of the Comments of Deutsche Telekom AG in the above matter.

Sincerely,

A. Bradley Shingleton

A. Bradley Shingleton
Legal Counsel
Deutsche Telekom Inc. North America
1020 19th Street, N.W. Suite 850
Washington, D.C. 20036
(202) 452-9100

cc: International Bureau
International Reference Room, International Bureau
International Transcription Services, Inc.

No. of Copies rec'd 0+9
List ABCDE

RECEIVED

FEB 7 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 10554

In the Matter of	)	
International Settlement Rates	)	**IB Docket No. 96-261**

TO: The Commission

COMMENTS OF DEUTSCHE TELEKOM AG

Hans-Willi Hefekäuser
Dr. Andrea Huber
DEUTSCHE TELEKOM AG
Friedrich-Ebert-Allee 140
Bonn
Germany

Klaus Mai
A. Bradley Shingleton
DEUTSCHE TELEKOM,INC.
1020 19th Street, N.W., Suite 850
Washington, D.C. 20036

Dated: February 7, 1997

TABLE OF CONTENTS

SUMMARY ii

COMMENTS OF DEUTSCHE TELEKOM AG 1

I. INTRODUCTION 2

II. DT SUPPORTS THE COMMISSION'S GOAL OF REDUCING INTERNATIONAL SETTLEMENT RATES 3

III. ACCOUNTING RATE REFORM SHOULD BE BASED PRIMARILY ON MULTILATERAL EFFORTS, NOT UNILATERAL ONES 5

IV. IF ADOPTED, THE BENCHMARK SYSTEM SHOULD BE FLEXIBLE AND INTERNATIONALLY ACCEPTABLE 9

CONCLUSION 11

Summary

Deutsche Telekom AG ("DT") supports the objectives of the Commission in seeking to lower international accounting rates to levels that reflect the actual costs of terminating international traffic. The benchmark system proposed by the Commission can initiate this process, provided it is fair, flexible, transparent and internationally acceptable. At the same time, DT believes that priority should be given to a multilateral approach in order to prevent international friction, and to address the traffic distortions that will remain in spite of unilateral actions. Unilateral actions should, therefore, not be permitted to interfere with international efforts to reform the existing accounting rate system. Ultimately, only competition can drive down accounting rates to actual costs, and the Commission should continue to promote efforts to liberalize the international telecommunications market.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
International Settlement Rates	)	IB Docket No. 96-261

To: The Commission

COMMENTS OF DEUTSCHE TELEKOM AG

DT hereby submits its comments to the *Notice of Proposed Rulemaking* on International Settlement Rates.[1] As explained below, DT agrees with the Commission's goal of lowering existing accounting rates. However, DT has reservations about the means chosen by the Commission to achieve this goal: specifically, the use of a unilateral approach to an international problem. DT also has doubts about the complexity and administrability of the Commission's proposed benchmark system. In these comments, DT will briefly describe its own experience as a net payer under the current accounting rate system. Next, DT will set forth its suggestions for promoting reform of the accounting rate system. Finally, the comments will address the Commission's proposed benchmark system.

[1] International Settlement Rates, Notice of Proposed Rulemaking, IB Docket No. 96-261, December 19, 1996 ("NPRM")

I. Introduction

DT has a strong interest in the reform of the existing settlement rate system. As a payer of very substantial net settlement payments year after year, DT is acutely aware that the current above-cost accounting rates and high international tariffs impose excessive costs and distort international traffic flows.

While it is not a substitute for competition, a benchmark rate system can contribute to the reduction of settlement rates, provided that it is internationally acceptable, flexible and reflects actual market conditions. DT welcomes the Commission's proposed benchmarks as a first step toward lower accounting rates. It must, however, be part of an international effort to reform accounting rates.

The FCC concludes that settlement payments amount to a subsidy for foreign carriers. While above-cost settlement rates and inflated international tariffs certainly are a principal cause of outpayments by U.S. carriers, they are not the sole cause. The accounting rate system has given rise to hubbing, refiling and reverse-charge services, such as call-back and home country direct service. U.S. carriers have aggressively marketed these services and they have grown rapidly, becoming a major factor in causing traffic imbalances and increases in settlement outpayments by U.S. carriers.

The reality is that these activities by U.S. carriers have contributed to the growing U.S. settlement deficit. The overall settlement deficit of U.S. carriers is not simply a result of increased calling volumes by U.S. consumers, it is also a product of the growing revenues of U.S. carriers from hubbing, re-filing and reverse-charge services. Since these services distort traffic flows, they demonstrate the shortcomings of the existing accounting rate system.

Apart from these shortcomings, the proposed benchmark system suffers from the fact that it is insufficient by itself to produce cost-based accounting rates on a global scale. The fundamental problem underlying the current settlements system is a lack of competition in many telecommunications markets. As the Commission recognizes, competition is the best means to drive down settlement rates and increase efficient use of network resources.[2] Competition requires market liberalization, and the Commission should pursue all available opportunities to promote competition on a global basis. DT believes that unilateral action such as this rulemaking may well impede rather than advance the cause of competition. If adopted, the proposed benchmark system should not, in short, frustrate the ultimate goal of liberalized markets and vigorous competition on a global scale.

II. DT Supports the Commission's Goal of Reducing International Settlement Rates

DT agrees with the Commission that it is necessary to reduce international settlement rates and to bring them closer to the actual cost of terminating an international call. DT itself originates 32.7 million excess

[2] NPRM at Para 20.

minutes of outgoing international traffic per month[3] and, thus, makes significant settlement payments to correspondent carriers. In 1996, DT made a deficit payment of approximately DM 735 million in settlements to foreign carriers for excess outgoing traffic minutes.[4] Therefore, DT has a strong interest in lowering accounting rates and supports international efforts to reduce them on a global scale. For example, DT is a member of the ITU's Telecommunication Standardization Sector, Study Group 3, which is working on a framework to establish revenue-sharing mechanisms for international carriers. Most recently, DT has supported the Recommendation D.140 which contains a five-year timetable to bring accounting rates closer to costs[5]. Also, within the framework of the World Telecommunications Standardization Conference, Study Group 3 continues to work on the further development of tariff and accounting principles.[6]

DT's commitment to cost-based accounting rates is also evidenced by the steady reduction of accounting rates for the U.S.-Germany route. Between 1991 and 1996, accounting rates were reduced from 1.2 SDR to 0.16 SDR (87% reduction). DT's consumer tariffs for that route decreased by 54% during the same time period, and business customer tariffs were reduced by an even

---

[3] Average number for 1996.

[4] At current exchange rates, this amounts to approximately $ 445.4 million ($ 1 = DM 1.65).

[5] International Telecommunications Union, Telecommunications Standardization Sector, ITU Recommendation D. 140, Accounting Rate Principles for International Telecommunications Services (Geneva 1992, revised 1995).

[6] See ITU-T Study Group, Development of Tariff and Accounting Principles and Study of Related Telecommunication Economic and Policy Issues, Report to the WTSC-96 (Geneva 1996).

greater amount due to volume discounts. Also, business customers enjoy a further advantage under the German tax system.

The U.S.-German accounting rate is below the lower level of the FCC's 1992 benchmark rate. DT's current accounting rate is among the lowest of any foreign carrier with U.S. carriers. In fact, DT's accounting rate of 0.16 SDR is lower than the benchmark proposed in the NPRM. At the same time, traffic imbalances on this route have continued to increase, which proves that accounting rates are not the only cause of such imbalances. Bypass and reverse-charge services, actively promoted by U.S. carriers, have more than offset the effect of accounting rate reductions.

As demonstrated by its own actions, DT nevertheless believes in the benefits of lower accounting rates, increased and more balanced traffic, and greater efficiency in the use of networks. DT shares the Commission's goal of lower rates for international termination costs.

III. Accounting Rate Reform Should Be Based Primarily On Multilateral Efforts, Not Unilateral Ones.

A. Unilateral Action Will Lead to International Friction.

DT is doubtful that the unilateral efforts of one jurisdiction can successfully regulate a global phenomenon. Foreign carriers' support of reform attempts might be undermined by the belief that reform - however reasonable it may be - is imposed upon them by a regulator who does not have jurisdiction over them. Non-U.S. regulators might feel their rights are violated by the Commission's unilateral approach to accounting rate reform.

While the U.S. international telecommunications services market is an important global market, accounting rates involve virtually every jurisdiction in the world. Given the negative public reaction to the NPRM already expressed by some countries, if implemented it will likely be viewed as a unilateral step that infringes national sovereignty and disregards the principle of international comity.[7] Friction among carriers and regulators is bound to result if this kind of opposition to the Commission's rulemaking continues to develop, undermining the Commission's efforts. DT therefore believes that a more cooperative multilateral approach, described below, will yield greater long-term benefits.

B. Unilateral Action Is Inadequate And Possibly Counterproductive.

In addition to causing conflict over the Commission's authority, the proposed rulemaking could also fail to remedy adequately the flaws of the current system. For example, there is no assurance that countries complying with the Commission's benchmarks will extend the same benchmark rates to other countries. Indeed, if those countries can continue to force above-cost rates on foreign carriers serving their markets, they would likely maintain that practice. The proportion of U.S. outbound minutes would continue to grow,

[7] Hong Kong Telecommunications Ltd. has already announced its opposition to the Commission's proposal. Hong Kong Telecom to Spell Out Opposition to U.S. FCC Accounting Rate Plan, AFX-ASIA, January 21, 1997.

fueled by reverse-charge services. While U.S. carriers would benefit from lower settlement payments, traffic distortions would continue, and most likely increase. In the end, the same distortions of international traffic would remain even though foreign carriers were in compliance with the benchmarks in their relations with U.S. carriers. This can hardly be described as internationally beneficial accounting rate reform.

Another inadequacy involves the failure of the NPRM to consider the impact of hubbing, refiling, and reverse-charge services, such as home country direct and callback, on the settlements system. Without question, the active promotion of these services has contributed to the increasing proportion of U.S.- billed minutes to all international minutes. [8]

Since such services typically involve routing traffic so that it is deemed to originate in a low-tariff country, they create distortions in international traffic flows. Of course, high customer tariffs caused by artificially high accounting rates provide the economic incentive for such services. But reduction of accounting rates will not, in and of itself, cause a decline in hubbing, re-filing and reverse-charge services and their traffic-distorting consequences. Only when a reduction of accounting rates results in the reduction of customer tariffs will these by-pass services lose their attractiveness. All in all, only competition in liberalized markets can ensure cost-based accounting and collection rates, efficient uses of networks and a rational and balanced distribution of traffic revenues.

---

[8] cf. The increasing proportion is reflected in Appendix C to the NPRM.

There is no reason to expect that the imposition of benchmarks as proposed will eliminate the demand for such traffic-distorting services. Unless benchmarks are an element of a broader international reform, benchmarks will only serve to lower the costs to U.S. carriers and increase the incentive to distort international traffic flows.

C. Accounting Rate Reform Requires A Multilateral Effort.

Artificially high accounting rates described by the Commission in the NPRM affect all countries, not only the United States. The accounting rate structure is the result of years of negotiation and commercial practice among all the telecommunications carriers of the world. International organizations such as ITU, OECD and the WTO exist to address multilateral problems through international consensus. As the Commission notes in the NPRM, these organizations are engaged in efforts to achieve greater liberalization of the telecommunications markets of all their member countries.

The Secretary General of the ITU has affirmed that the traffic imbalances caused by non cost-based accounting rates require a reform of the accounting rate system. [9] On the other hand, he also warned that tampering with the accounting rate system might endanger the continued viability of the international telephone system.[10] Therefore, DT favors a global solution for the difficulties stemming from the existing accounting rate system. A multilateral

---

[9] See Pekka Tarjanne, How Will the Accounting Rate System Need to be Modified in a Liberalized Market? ITU News 9/96, 3, 5.
[10] Id.

agreement would ensure that developing countries' voices are heard in the reform process and would also, eventually, increase its acceptance. The ITU and OECD have the resources and the will to reform the existing accounting rate system.

DT supports these multilateral efforts, and is participating in the ITU accounting rate reform initiative. While concrete results may take longer to realize than DT and other net payers would like, those results will be more durable and widely accepted than those achieved by unilateral action. DT therefore suggests that the Commission consider the wisdom of unilateral action that may prejudice the ability of multilateral organizations to progress in their ongoing efforts to liberalize international telecommunications.

Therefore, DT urges that the highest priority should be a global reform of the accounting rate system instead of unilateral regulations which might lead to resentment and non-compliance from exactly those countries which need to lower their accounting rates most urgently.

IV. If Adopted, the Benchmark System Should Be Flexible and Internationally Acceptable.

However, should the Commission resolve to apply the proposed benchmark methodology, DT wishes to express the following concerns. First, the proposed benchmark rates must be flexible. Unless the benchmark rates are continually revised to reflect current tariffs, they could inhibit the pace of accounting rate reductions. The resources required for the administrators of the benchmarks will be considerable, perhaps more than the Commission can provide.

The upper benchmark ranges suggested by the Commission are based on an average of carriers' aggregated tariffed prices for network elements. Should these prices change by more than an insignificant amount, the benchmark rates must be revised to preserve the relationship between tariffed prices and settlement rates.

As for the lower ranges of the benchmark rates, DT agrees with the Commission that, ideally, accounting rates should be based on the actual termination costs for international calls. However, it is doubtful whether the method chosen by the Commission to determine the lower ranges of the benchmark rates is appropriate. In its method, the Commission relies on information provided by one U.S. carrier. Based on that carrier's termination costs the Commission then estimates foreign carriers' cost of terminating international calls. In this context, the Commission does not sufficiently consider the fact that the termination costs of that carrier, most likely, will be far lower than that of many other carriers. In particular, because of their outdated networks, carriers in lesser and least developed countries incur much higher termination costs than carriers in developed countries. It does not seem likely that the amount of $.03 the Commission, based on its own data, added to the U.S. carrier's cost will be sufficient to cover the actual costs of carriers with a less developed infrastructure. Furthermore, it is inappropriate to base any element of internationally applicable benchmarks on the cost data of a single U.S. carrier.

In short, if the Commission adopts the rules it proposed in the NPRM it is mandatory that the benchmark methodology be fair, transparent, non-discriminatory, and objective or else any chance of acceptance, especially among foreign carriers, will be lost.

DT also urges the Commission to consider that information about carriers' costs is usually kept highly confidential. Data about network and termination costs are proprietary, and the disclosure of such data could be extremely damaging in a competitive situation. As a general practice, data about termination costs are only disclosed in confidential settlement rate negotiations between two carriers. Therefore, the Commission's procedure leaves higher-cost carriers a choice between either accepting a below-cost benchmark or disclosing proprietary information.[11] Confidential treatment must be accorded to such proprietary information.

Finally, the NPRM proposes an array of enforcement measures for the proposed benchmark rates. DT favors, in general, enforcement measures involving the competent multilateral organizations, such as the ITU.[12] Enforcement measures that might lead to frictions among corresponding carriers and further traffic distortions should not be implemented.

---

[11] NPRM at Para 57.
[12] NPRM at Para 88.

V. Conclusion.

DT commends and supports the Commission in its efforts to reduce accounting rates to cost-based levels. As a telecommunications carrier forced to make substantial settlement outpayments under existing arrangements, DT shares the Commission's belief that artificially high accounting rates cause inefficiencies and traffic distortions. DT further believes, however, that the Commission should give preference to a multilateral approach since a unilateral approach may well frustrate pending international efforts to lower accounting rates, create international friction and further distort international traffic. If the Commission proceeds to adopt its proposed benchmark system, DT urges the Commission to ensure that it is flexible, just and internationally acceptable. It should not become an obstacle to international liberalization.

Respectfully submitted,

DEUTSCHE TELEKOM AG

DEUTSCHE TELEKOM, Inc.

By: A B Shingleton

A. Bradley Shingleton

Dated: February 7, 1997

Certificate of Service

I, A. Bradley Shingleton, hereby certify that on this 7th day of February, 1997, a true copy of the foregoing Comments of Deutsche Telekom AG was hand-delivered to the persons listed on the attached Service List.

A. Bradley Shingleton

SERVICE LIST

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Donald H. Gips
Chief
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Kathryn O'Brien
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Diane Cornell, Chief
Telecommunications Division
International Bureau
Federal Communications Commission
2000 M. Street, N.W., Room 800
Washington, D.C. 20554

Kerry E. Murray, Esq.
Telecommunications Division
International Bureau
Federal Communications Commission
2000 Street, N.W., Room 800
Washington, D.C. 20554

Peter Cowhey, Chief
Multilateral and Development Branch
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 849
Washington, D.C. 20554

Brett Haan
International Bureau
Federal Communications
Commission
2000 M Street, N.W., Room 853
Washington, D.C. 20554

International Reference Room
International Bureau
Federal Communications
Commission
2000 M Street, N.W., Room 837
Washington, D.C. 20554

International Transcription
Service
Federal Communications
Commission
2100 M Street, N.W., Suite 140
Washington, D.C. 20037