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November 18, 1997

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20036

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ex Parte

**Re: Rules and Policies on Foreign Participation in the U.S. Telecommunications
Market, IB Docket No. 97-142.**

Dear Ms. Salas:

We have discussed with the Commission and the International Bureau our concerns that the provision of switched resale services on affiliate routes allows the manipulation of the settlements and proportionate return process through "affiliate call-turnaround," "call volume enhancement" and "affiliate reorigination." By engaging in such practices, a foreign carrier that is affiliated with a U.S. carrier and has above-cost settlement rates can obtain additional profits from its settlement rates and raise rivals' costs in the U.S. by increasing U.S. settlement outpayments.

AT&T believes that the most appropriate way to prevent such behavior would be to condition the U.S. affiliate's international switched resale Section 214 authorization on lower settlement rates on affiliate routes. Settlement rates on such routes should be reduced preferably to "best practice" levels, or at least to the benchmark rates established in the Commission's recent Report and Order in International Settlement Rates, IB 96-261 (rel. Aug. 18, 1997) ("Benchmark Order").

Another possible approach that would reduce but not eliminate the incentives to engage in these settlements manipulation activities would be to require the foreign affiliate to charge usual (i.e., benchmark glidepath) settlement rates for its

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existing traffic, and the “best practice” settlement rate for incremental minutes (i.e., minutes above levels consistent with the existing industry outbound-inbound traffic ratio). This remedy is analogous to the industry traffic threshold approach to growth-based settlement rates that U.S. carriers are using with the UK and have found to be easy to administer. Such an industry threshold approach to growth-based rates has been endorsed by the Commission.

This remedy would allow the foreign carrier to continue to receive at least the same level of settlement payments (and subsidies) that it would have received if its affiliate had not entered the U.S. market to provide switched resale services.

Under this approach, inbound and outbound traffic consistent with the existing outbound-inbound ratio on affiliate routes would continue to be settled under usual arrangements. However, all incremental industry minutes exceeding levels consistent with the existing industry outbound-inbound traffic ratio would be settled at the best practice rate. For example, if the industry outbound-inbound ratio was 2 to 1, and the outbound minutes of traffic to the foreign country were 300 minutes, and the inbound minutes to the United States were 100 minutes, then the first 200 outbound minutes and the 100 inbound minutes would be settled at the usual rate. However, the incremental 100 outbound minutes to the foreign country would be settled at the best practice rate. The industry outbound-inbound ratio for the route may easily be derived by dividing the total minutes of outbound U.S. traffic on the route by the total minutes of inbound traffic. This data is published in the FCC’s Section 43.61 report.

The normal settlements process would be used to implement this remedy. The settlement statements that U.S. carriers already exchange with their foreign correspondents would also enable U.S. carriers to monitor their traffic and the outbound-inbound ratio to implement this approach and to make payments. Thus, already-existing procedures for the true-ups of settlements are all that would be necessary to accommodate any traffic variations that might occur.

This remedy is similar in design to the industry threshold growth-based settlement rates that currently exist with carriers in the UK, and that have been endorsed by the Commission as a means of ensuring non-discriminatory growth-based arrangements with foreign correspondents. Indeed, the Commission has actively recommended that foreign correspondents adopt an industry threshold approach when implementing growth-based settlement rates.

I would be pleased to provide further information concerning these issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judy Sumner".