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

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In the Matter of )  
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)  
Rules and Policies on Foreign ) IB Docket No. 97-142  
Participation in the U.S. )  
Telecommunications Market )

OPPOSITION OF SPRINT

Sprint Communications Company, L.P. ("Sprint") respectfully opposes the January 8, 1998 petition for reconsideration of MCI Telecommunications Corporation ("MCI") in the above-captioned proceeding. MCI asks the Commission to reverse its "decision not to condition the switched resale authorizations of foreign-affiliated carriers on reaching the applicable benchmark settlement rate on the affiliated route."<sup>1</sup>

In its petition, MCI largely repeats the same arguments that the Commission rejected in its decision in IB Docket No. 97-142,<sup>2</sup> arguing that the Commission struck the wrong balance in deciding

<sup>1</sup> See Order and Notice of Proposed Rulemaking, IB Docket No. 97-142, released June 4, 1997 ("NPRM"). MCI would also require that the authorization be conditioned to achieve proportionate annual reductions in its settlement rates during its transition to the benchmark and require the filing of additional information by foreign-affiliated switched resellers. *Id.* at 2. Sprint believes that MCI's suggested additional requirements are unnecessary and can easily be applied on a case-by-case basis where needed. The International Bureau in fact imposed several unique additional requirements on the 214 resale authorization of the Telmex/Sprint joint venture, Telmex/Sprint Communications, L.L.C., DA 97-2289, released October 30, 1997, applications for review pending.

<sup>2</sup> Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, FCC 97-398, released November 26, 1997.

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against the imposition of the benchmark condition on resellers. MCI argues that the Commission erred in finding that switched resellers have less incentive and ability to engage in a predatory price squeeze than facilities based carriers.

MCI contends that the Commission was wrong in concluding that a reseller's wholesale costs are known or easily identifiable by the Commission and the underlying facilities based carrier. MCI Petition for Reconsideration at 5. It argues that it would be difficult or impossible to monitor the multiple complex contractual arrangements between resellers and their underlying facilities based carriers. While it may not be simple to evaluate a reseller's cost of service under such circumstances, the Commission's long experience with cost based rate regulation renders it quite capable of evaluating complex wholesale cost data to calculate a properly weighted cost of service if necessary.

In addition, Sprint believes it may be unnecessary for the Commission to go through such time consuming efforts before it becomes apparent that a foreign-affiliated reseller's pricing merits closer investigation; there are better tools potentially available. For example, MCI has noted the existence of a wholesale "spot" market in minutes for the sale of U.S. originating international minutes, much of which is located at one location, 60 Hudson Street in New York City, where many resellers have operations or interconnections. MCI Petition at n. 17. MCI, like Sprint, no doubt observes its competitors'

pricing (including reseller pricing) closely in order to remain competitive.

The spot market may be a useful way for the Commission or competitors to detect a potential price squeeze strategy by a reseller affiliated with a foreign carrier. The existence of such a market does not necessarily make it more difficult to detect anticompetitive pricing by switched resellers, as MCI contends. In fact, the opposite is more likely. The prices a reseller charges its customers are filed in its tariffs. Between the availability of spot prices for wholesale minutes and the Commission's plenary authority under Sections 218, 219 and 403 of the Communications Act to require carriers to submit information, it would be relatively simple for the Commission to determine whether a reseller's tariffed rates are below the spot prices.

Reseller tariffs may temporarily or occasionally dip below spot prices for procompetitive reasons (e.g. promotions or "loss leaders"), or because of fluctuations in the wholesale market for minutes. A sustained pattern<sup>3</sup> of pricing below spot prices, however, would alert the Commission to the possible existence of a price squeeze warranting further investigation.

Another useful tool to detect price squeezes is the settlement rates on a particular route. Both tariffed collection

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<sup>3</sup> MCI makes much of the temporal aspects of determining a reseller's wholesale cost, asking whether the Commission would examine average variable costs over a set period or time, or the reseller's cost at one point in time. In Sprint's view, it would be sufficient to observe a reseller's pricing over some period of time, comparing the reseller's prices to the prices available on the spot market at those points. The pattern of the reseller's pricing behavior is more important than any particular time period the Commission chooses to conduct its observation.

rates and accounting rates are publicly available, the latter on the Commission's internet website. If a U.S. reseller affiliated with a monopoly or dominant foreign carrier consistently priced its service to customers at a per minute rate lower than the settlement rate on that route, this would be readily apparent to competitors and the Commission. The Commission could then investigate the reasons for such pricing either on its own initiative or in response to a complaint from a carrier like MCI.

Finally, MCI argues that the Commission should, upon credible demonstration that a foreign affiliated switched reseller has distorted U.S. international service competition, require that reseller to show cause why it has not engaged in such efforts. If the reseller fails to do so, MCI urges the Commission to act swiftly to impose the benchmark condition on the offending carrier. MCI Petition at 9.

Sprint does not oppose MCI's suggestion, but believes that the Commission can address these cases individually. Unlike MCI, Sprint believes these cases will be rare. MCI speculates that "U.S. licensed switched resellers have the ability to distort traffic by, for example, using autodialer devices to increase artificially U.S. outbound traffic." MCI Petition at 8.

Although not totally clear to Sprint, MCI seems to be arguing that a dominant or monopoly foreign carrier might, together with its affiliated U.S. reseller, use signaling devices and U.S. autodialers to convert U.S.-outbound calls into U.S.-inbound calls for the sole purpose of increasing the foreign

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carrier's net settlement payments.<sup>4</sup> While theoretically possible, Sprint believes that such a scenario is unlikely in any country which is opening up to competition for the following reasons.

In order to engage in such a strategy, the foreign carrier and its affiliated reseller would have to invest heavily to acquire and install autodialer equipment on a large scale. Such equipment would introduce postdial delay because of the additional call holding time resulting from the additional signaling and transmission: the foreign switch must communicate with the U.S. autodialer to pass numbers back and forth and to open a U.S.-originating transmission path.

The recent ratification of the World Trade Organization Basic Agreement on Telecommunications as well as the Commission's own efforts to move accounting rates towards cost with its accounting rate benchmarks means that one way or another, the cost of terminating international telecommunications will decline. For a dominant foreign carrier to engage in the strategy that MCI envisions is essentially a bet that the accounting rate system with its uncompetitive termination costs can be propped up long enough to make the investment in a call reversal strategy worthwhile.<sup>5</sup>

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<sup>4</sup> Unlike existing callback operators who utilize similar technology, under MCI's scenario a dominant or monopoly foreign carrier would not be arbitraging between collection rates in the calling and called countries.

<sup>5</sup> Sprint also notes that such a strategy would not make economic sense for the foreign carrier if the additional settlement it collected from such call reversal was (after allowing for additional expenses incurred) less than the amount it could earn by simply charging its in-country

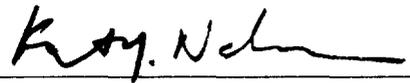
That system, however, is under attack on a number of fronts, making any financial gain uncertain and short term at best. What is certain, however, is the need for large capital expenditures that would be required to engage in callback on a massive scale (an investment that would become increasingly debased as accounting rates move toward competitive levels), as well as the degradation of service due to postdial delay just as competition is taking root. For a foreign carrier to expend substantial resources and degrade service just as it is beginning to face competition would be a foolish and risky competitive strategy. Sprint believes that for most dominant foreign carriers, the game would not be worth the candle, rendering MCI's scenario an unlikely one.

For the foregoing reasons, Sprint respectfully requests that MCI's Petition for Reconsideration be denied.

Respectfully submitted,

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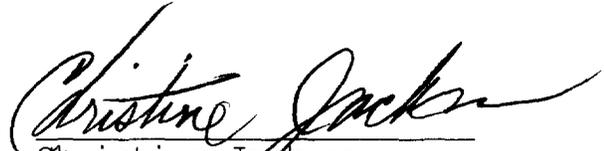
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collection rate. This would be the case irrespective of whether the foreign country in question was opening up to competition.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Opposition of Sprint** was sent by hand or by United States first-class mail, postage prepaid, on this the 10<sup>th</sup> day of February 1998, to the parties on the attached list.

  
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