

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

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| In the Matter of                          | ) |                      |
|                                           | ) |                      |
| 1998 Biennial Regulatory Review --        | ) | IB Docket No. 98-148 |
| Reform of the International Settlements   | ) |                      |
| Policy and Associated Filing Requirements | ) |                      |
|                                           | ) |                      |
| Regulation of International               | ) | CC Docket No. 90-337 |
| Accounting Rates                          | ) |                      |

**REPLY COMMENTS OF BELL ATLANTIC<sup>1</sup>**

There is a broad consensus among commenters in support of the Commission’s efforts to reform the International Settlements Policy (“ISP”) pursuant to 47 U.S.C. §161. There is also, however, general consensus that the Commission should ensure that any reforms do not impede the development of competition. Accordingly, the Commission should adopt its proposals with the modifications suggested by Bell Atlantic to ensure that competition in the international market continues to develop.

**I. The Commission Should Retain The No Special Concessions Rule.**

There is virtually unanimous support for the Commission’s proposal to eliminate the ISP for arrangements with foreign carriers in liberalized markets. Nevertheless, a number of commenters agree with Bell Atlantic that the No Special Concessions rule remains an important safeguard, and should be retained. *E.g.*, MCI WorldCom at 10; Sprint at 12. As Bell Atlantic pointed out in its Comments, where a foreign carrier has

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<sup>1</sup> These comments are filed on behalf of Bell Atlantic Communications, Inc. (“BACI”) and NYNEX Long Distance Company (“NLD”) who are U.S. certified international carriers that provide service outside the territories served by their local exchange carrier affiliates.

market power in the destination market, there is still a danger that it could whipsaw U.S. carriers or that it could enter into arrangements that would effectively preclude new and recent entrants from being able to compete for traffic on that route. Bell Atlantic Comments at 3. This is true whether or not the foreign carrier with market power is affiliated with the U.S. carrier involved in the arrangement.

In particular, exclusive arrangements between existing major U.S. carriers and foreign carriers with market power could adversely affect competition in the U.S. market because they could have the effect of “freezing out” new and recent entrants – preventing them from reaching agreements with the dominant (and perhaps only) foreign carrier in a particular market.<sup>2</sup> Elimination of the No Special Concessions rule, therefore, could allow the incumbent major long distance carriers providing international telecommunications services to impede the development of additional competition for their services.

Consequently, the Commission should maintain the No Special Concessions rule for arrangements with foreign carriers with market power in liberalized markets.<sup>3</sup> The Commission should adopt its tentative conclusion that the No Special Concessions rule

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<sup>2</sup> Since international simple resale is permitted under the Commission’s rules where the destination country offers equivalent resale opportunities, or where 50 percent of the traffic on the route is settled at or below benchmark rates, 47 C.F.R. §63.18(e)(4), it is possible that competitive alternatives to the dominant foreign carrier do not exist in the destination market.

<sup>3</sup> The Commission also should retain its filing requirements in sections 43.51 and 64.1001, 47 C.F.R. §§ 43.51, 64.1001, where the foreign carrier has market power. Arrangements between U.S. carriers and foreign carriers with market power in the destination market should continue to be filed publicly, whether or not the foreign carrier is an affiliate of the U.S. carrier. In addition, the Commission should reject AT&T’s petition for reconsideration of the *Flexibility Order* that proposes to eliminate the approval criteria and filing obligations imposed on flexible arrangements that involve 25% or more of outbound traffic. *See also* Ameritech Comments at 9; BellSouth Comments at 4.

does not apply to the terms and conditions under which traffic is settled, including allocation of return traffic, by a U.S. carrier on an international simple resale route, but that it does prohibit exclusive arrangements with a foreign carrier with market power with respect to interconnection of international facilities, private line provisioning and maintenance, and quality of service.<sup>4</sup>

## **II. The Commission Should Permit Geographic Grooming Of Traffic.**

While several commenters point out that geographic grooming of traffic is consistent with the Commission's goals, *e.g.*, SBC Comments at 20-24; Cable & Wireless Comments at 15, AT&T and MCI WorldCom ask the Commission to single out incumbent local exchange carriers for special restrictions and preclude them from entering into arrangements for grooming of traffic. AT&T Comments at 33-34<sup>5</sup>; MCI WorldCom Comments at 10. Such different treatment for one group of U.S. carriers is unwarranted. The Commission has determined that BACI, NLD, and other similar companies are non-dominant for the provision of both in-region and out-of-region long distance services, including international telecommunications services.<sup>6</sup> There is no reason to create a

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<sup>4</sup> For these reasons, the Commission also should grant NYNEX's petition for reconsideration of the *Flexibility Order*, and should modify its flexibility safeguard by adopting a presumption that exclusive arrangements between foreign carriers and US international carriers are unreasonably discriminatory. *See also* PrimeTEC Comments at 9.

<sup>5</sup> Indeed, AT&T goes even further and would have the Commission focus the additional restrictions on Bell Operating Companies. There is no justification for such discrimination among U.S. carriers.

<sup>6</sup> *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 12 FCC Rcd 15756 (1997); *Bell Atlantic Communications, Inc. Application for Global Authority to Provide Facilities-based Switched, Private Line, and Data Services between the United States and International Points*, 12 FCC Rcd

special class of non-dominant carriers and subject them to different regulatory requirements than other non-dominant carriers. Instead, the Commission should allow grooming of traffic where such arrangements are non-exclusive and otherwise consistent with the Commission's rules.

### **III. The Commission Should Seek Ways To Expand ISR.**

A number of commenters suggested means by which the Commission could permit ISR on more routes. *E.g.*, BellSouth Comments at 5; Cable & Wireless Comments at 3-4; GTE Comments at 13; PrimeTEC Comments at 10. The primary opposition to expanded ISR comes from the major long distance carriers, who argue that proposals to expand ISR could result in one-way bypass. *E.g.*, AT&T Comments at 28-31; MCI WorldCom Comments at 9; Sprint Comments at 10-11.

“Bypass” is simply another word for competition. It is clear that the major long distance carriers have an incentive to resist increased competition for their business. As the Commission noted, however, ISR has the potential to put significant pressure on settlement rates. NPRM, ¶ 38. As a result, the Commission should continue to explore ways in which ISR can be permitted on more routes.

### **CONCLUSION**

The Commission should adopt its proposals to lift the ISP and eliminate filing requirements for arrangements between U.S. carriers and foreign carriers from WTO

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1880 (1997); *NYNEX Long Distance Company Application for Authority to Provide International Services from Certain Points Within the United States to Gibraltar through the Resale of International Switched Services*, 12 FCC Rcd 24219 (1997); *NYNEX Long Distance Co. Application for Authority to Provide International Services from Certain Parts of the United States to International Points through the Resale of International Switched Services*, 11 FCC Rcd 8685 (1996).

member countries that lack market power in the destination market. Where the foreign carrier possesses market power, however, the Commission should retain the No Special Concessions Rule to prohibit exclusive arrangements. Finally, the Commission should permit geographic grooming of traffic and should continue to explore ways of permitting ISR on more routes. Both of these proposals are consistent with the Commission's goals.

Respectfully submitted,

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