MCI WORLDCOM

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington D.C. 20554

Re: IB Docket No. 98-192
Direct Access to INTELSAT

EX PARTE

Dear Ms. Salas:

The Commission's Direct Access Order[1] became effective on December 6, 1999, over two months ago. Unfortunately, due to the conduct of COMSAT Corporation ("COMSAT"), MCI WorldCom, Inc. ("MCI WorldCom") still faces significant barriers to achieving the competitive benefits of direct access envisioned by the Commission. As outlined below, at every step, COMSAT has tried to impede implementation of direct access. The effects of COMSAT's strategy are demonstrated by the data regarding MCI WorldCom's direct access orders to INTELSAT that are set out in Attachment A. By this letter, MCI WorldCom requests that the Commission take prompt and decisive action to require COMSAT to abide by the letter and spirit of the Direct Access Order.[2]

One of COMSAT's most flagrant violations of the express terms of the Direct Access Order involved COMSAT's denial of direct access to MCI WorldCom on the U.S. – Brazil route. We appreciate the February 9, 2000 letter from Donald Abelson, Chief of the International Bureau, explicitly instructing COMSAT to discontinue this practice.

In an undisguised effort to frustrate implementation of direct access, COMSAT has interposed itself in the process of ordering and paying for INTELSAT capacity through direct access, which should, by the very definition of direct access, be a matter solely between INTELSAT and its customers like MCI WorldCom. Among other things, COMSAT has asserted this improper role through COMSAT Tariff F.C.C. No. 4 (the "COMSAT Tariff"),

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[1] Direct Access to the INTELSAT System, FCC 99-236, IB Docket No. 98-192 (rel. Sept. 16, 1999) ("Direct Access Order").

[2] The issues identified in this letter do not relate to portability of INTELSAT capacity controlled by COMSAT, an issue deferred by the Commission in the Direct Access Order. See id., ¶¶ 126-28. MCI WorldCom has already experienced significant problems regarding the unavailability of INTELSAT capacity; but we will address this issue separately from the present letter.

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which was effective on December 3, 1999, and has been amended effective December 23, 1999 and February 15, 2000. The Commission permitted COMSAT to file a tariff solely to allow COMSAT to collect a direct access surcharge,[3] and thus, it is improper for COMSAT to attempt to use the tariff to set other terms for a service that, by the very terms of COMSAT's own tariff filing, it has no role in providing.[4] For example, the tariff asserts COMSAT authority under certain circumstances to "instruct INTELSAT to discontinue [direct access] service ... ."[5] Although the February 15, 2000 amendment of the COMSAT Tariff deleted or modified several of its most objectionable provisions, this amendment has not ended the difficulties experienced by MCI WorldCom as a result of improper COMSAT involvement in the direct access process.

First, and most important, the process of ordering new capacity from INTELSAT generally requires that a foreign carrier "match" a half-circuit capacity order placed by a U.S. carrier. In the context of implementation of the Direct Access Order, this requirement has generated substantial confusion among foreign carriers, who cannot understand the need to, and thus, in many cases are unwilling to, match existing capacity in connection with the transfer of U.S. half-circuits from COMSAT to MCI WorldCom. This unwillingness results from a variety of factors, including that foreign carriers fear that the process of "terminating" existing capacity and matching "new" capacity will risk the loss of scarce existing capacity, and that the decision to offer a capacity match can require high-level, time-consuming approvals in foreign carrier organizations. Recognizing this problem, INTELSAT helpfully proposed to treat the transfer of the foreign half-circuit as a frequency change (a very common occurrence in INTELSAT operations) rather than a capacity match; and MCI WorldCom accepted this approach. However, INTELSAT subsequently withdrew its proposal in response to pressure from COMSAT. COMSAT has refused to respond to MCI WorldCom's inquiries regarding this issue. This anticompetitive behavior by COMSAT is unacceptable, and is the most significant non-portability difficulty with direct access that MCI WorldCom currently faces.

Second, in order to simplify the direct access ordering and billing process, and eliminate the need for COMSAT's involvement in billing for the 5.58% direct access surcharge, INTELSAT has offered to include the surcharge on its bills to U.S. carriers and to pass carriers' payments on to COMSAT. COMSAT has refused this request, in a further effort to insert itself needlessly into the direct access process. COMSAT's refusal unnecessarily complicates the direct access process, particularly because INTELSAT provides COMSAT with a copy of INTELSAT's bills to U.S. direct access carriers – giving COMSAT all of the information it needs to insure that INTELSAT is properly collecting the surcharge.

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[3] Direct Access Order, ¶ 88.

[4] COMSAT Tariff, § 1.3 ("COMSAT is not a party to the furnishing of service under this tariff.").

[5] COMSAT Tariff, § 2.9.

MCI WorldCom respectfully requests that the Commission instruct COMSAT that once a carrier has qualified for direct access (like MCI WorldCom already has), COMSAT should assert no further role in the direct access process (other than to receive the direct access surcharge). Furthermore, the Commission should instruct COMSAT not to block efforts by INTELSAT to simplify the direct access process. Specifically, COMSAT should be required to inform INTELSAT that it does not oppose (1) treating transfers of foreign half-circuits in connection with direct access as frequency changes, (2) billing by INTELSAT for the direct access surcharge, or (3) otherwise eliminating COMSAT's middleman function with respect to direct access. The Commission has clear authority to take these actions under the instructional authority of the Communications Satellite Act[6] and the general tariff authority of the Communications Act.[7]

Sincerely,

Robert S. Koppel

Robert S. Koppel
Vice President and Senior Counsel
Wireless and Satellite Regulatory Affairs

cc: Donald Abelson (International Bureau)
James Ball (International Bureau)
Douglas Webbink (International Bureau)
Michael McCoin (International Bureau)
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Alfred Mamlet (Steptoe & Johnson)
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Maury Mechanick (COMSAT)
Sue Crandall (INTELSAT)

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[6] See 47 U.S.C. § 721.

[7] See 47 U.S.C. §§ 201-205.

Attachment A

Status of MCI WorldCom Direct Access Orders to INTELSAT

Transfer of Capacity from COMSAT		
Status	**No. of Orders**	**No. of 64 kbps Equivalent Circuits**
In Progress	28	494
Rejected (No Capacity)	48	1234
Completed	5	93
Total	**81**	**1821**

New Capacity		
Status	**No. of Orders**	**No. of 64 kbps Equivalent Circuits**
In Progress	10	205
Rejected (No Capacity)	1	32
Completed	7	28
Total	**18**	**265**