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

Enforcement of Other Nations' Prohibitions Against the Uncompleted Call Signaling Configuration of International Call-back Service	)	IB Docket No. 02-18
Petition for Rulemaking of the Telecommunications Resellers Association To Eliminate Comity-Based Enforcement of Other Nations' Prohibitions Against the Uncompleted Call Signaling Configuration of International Call-back Service	)	RM-9249

NOTICE OF PROPOSED RULEMAKING

Adopted: January 30, 2002 **Released: February 13, 2002**

Comment Date: April 14, 2002
Reply Comment Date: May 14, 2002

By the Commission:

I. Introduction

1. We grant the petition filed by the Telecommunications Resellers Association (TRA), and adopt a notice of proposed rulemaking to review the Commission's international call-back policy.[1] For reasons of international comity, current Commission policy prohibits U.S. carriers from offering a particular form of call-back to customers in countries where it is expressly prohibited. We believe that the balancing of interests involved in the Commission's 1995 decision to adopt the comity-based call-back policy has shifted. Consistent with the Commission's long-standing policies to promote competition in the international telecom market, we ask whether we should eliminate the existing policy that allows a foreign government or entity to make use of the enforcement mechanisms of the Commission to prohibit U.S. carriers from offering call-back abroad. As a general matter, we continue to believe that it is in the interests of U.S. carriers to act in a manner consistent with foreign law. To that end, we propose to continue to maintain a public file that contains information on the legality of call-back in foreign countries. We also propose to maintain our policies prohibiting call-back configurations that degrade the network or constitute fraudulent activity.

[1] *See* Petition for Rulemaking of the Telecommunications Resellers Association To Eliminate Comity-Based Enforcement of Other Nation's Prohibitions Against the Uncompleted Call Signaling Configuration of International Call-back Service, RM-9249 (filed Mar. 19, 1998) (*TRA Petition*). TRA's rulemaking request is limited to the uncompleted call signaling configuration of international call-back service. Uncompleted call signaling occurs when a U.S. call-back company provides a caller in a foreign country with a U.S. dialtone to dial a telephone number in the United States and charges U.S. rates.

II. Background

2. International call-back arrangements allow foreign callers to take advantage of low U.S. international services rates, many of which are significantly lower than the rates available in their home countries. The Commission first examined international call-back in a 1994 decision granting section 214 authorizations to three applicants seeking to provide international resold switched services using the uncompleted call signaling configuration of call-back.[2] Uncompleted call signaling involves a foreign caller who dials the call-back provider's switch in the United States, waits a predetermined number of rings, and hangs up before the switch answers. The switch then automatically returns the call, and upon completion, provides the caller in the foreign country with a U.S. dialtone. The Commission's comity-based policy extends only to the uncompleted call signaling form of call-back because the record in the initial proceeding focused on this methodology.

3. In the *Call-back Order*, the Commission concluded that the public interest, convenience, and necessity would be served by authorizing the U.S. carriers to provide such service, that "could place significant downward pressure on foreign collection rates, to the ultimate benefit of U.S. ratepayers and industry."[3] In several proceedings since, the Commission has expressed steadfast support for call-back as an important alternative calling mechanism that places downward pressure on above-cost international rates for U.S. consumers.[4] At the same time, call-back traffic benefits foreign carriers by increasing the settlement rate payments made by U.S. carriers to foreign carriers under the international accounting rate regime.[5]

4. As part of the *Call-back Order*, the Commission concluded that the provision of call-back does not violate U.S. law or international law or regulations.[6] The Commission explicitly did not address the legality of international call-back under foreign law, but noted that the applicants should "provide service in a manner that is consistent with the laws of countries in which they operate."[7] On reconsideration, however, the Commission examined the provision of call-back in light of international

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[2] *See VIA USA, Ltd., Telegroup, Inc., Discount Call Int'l Co.*, 9 FCC Rcd 2288 (1994) (Call-Back Order), aff'd on reconsideration, 10 FCC Rcd 9540 (1995) (Call-Back Reconsideration) (together *Call-Back Proceeding*).

[3] *Id.* at 2290 (¶ 11).

[4] *See, e.g., 1998 Biennial Regulatory Review - - Reform of the International Settlements Policy and Associated Filing Requirements and Regulation of International Accounting Rates,* IB Docket No. 98-148 & CC Docket No. 90-337, Notice of Proposed Rulemaking, at 16 (rel. Aug. 6, 1998) (*ISP Reform NPRM)* ("We continue to believe that encouraging alternative means of routing traffic, such as international call-back service, Internet telephony, and switched hubbing is an effective way to lower settlement rates, as well as foreign and domestic collection rates."); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market and Market Entry and Regulation of Foreign-Affiliated Entities,* Report and Order and Order on Reconsideration, 12 FCC Rcd. 23, 891, 23,896 (¶ 7) (1997) (*Foreign Participation Order)*; Order on Reconsideration, 15 FCC Rcd 18158 (2000) ("New technologies such as call-back and Internet telephony are already putting significant pressure on international settlement rates and domestic collection rates.").

[5] Settlement rates are the per-minute charges that carriers pay their foreign correspondents to terminate international traffic. *See International Settlement Rates,* IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19, 806, 19, 807 (¶ 2) (1997) (*Benchmarks Order*) *aff'd sub nom., Cable and Wireless Plc. v. FCC,* 166 F.3d 1224 (DC Cir. 1999), Report and Order on Reconsideration and Order Lifting Stay, 14 FCC Rcd 9256 (1999). In a typical call-back arrangement, a U.S. call-back company provides a caller in a foreign country with a U.S. dialtone and charges U.S. rates. The call is deemed to be U.S.-originated for purposes of the international accounting rate regime, and the underlying U.S. international facilities-based carrier therefore makes a settlement payment on the call to its foreign correspondent.

[6] *See Call-back Reconsideration Order,* 10 FCC Rcd at 9524-54 (¶ 6-41).

[7] *Call-back Order,* 9 FCC Rcd at 2292 (¶ 18).

comity. The doctrine of international comity reflects the broad concept of respect among nations. It involves one nation recognizing within its territory the laws of a foreign state.[8] As the Commission noted, such recognition is entirely discretionary by individual nations.[9]

5. Notwithstanding the finding that call-back serves the public interest and does not violate U.S. or international law, the Commission concluded that the United States should, for reasons of international comity, assist in the enforcement of foreign laws that ban call-back. The Commission declared that foreign governments bear the principal responsibility for enforcing their domestic laws, but noted that an invocation of comity in this circumstance would assist in the effective enforcement of foreign laws. In 1995, the Commission therefore adopted a policy prohibiting U.S. carriers from offering international call-back using the uncompleted call signaling configuration to countries where it has been expressly prohibited.[10]

6. The Commission invited foreign governments to notify the U.S. Government of the legality of call-back within their territory. The Commission required that any notification include specific documentation of a legal restriction on international call-back using uncompleted call signaling, evidence of violations by particular carriers, and a description of enforcement measures attempted by that foreign government.[11] Since adoption of this policy, 36 countries have submitted information about the legality of call-back within their territories.[12] To date, the Commission has concluded that two countries, Saudi Arabia and the Philippines, have satisfied the requirements necessary for the Commission to assist in the enforcement of foreign laws against call-back. The International Bureau sent letters to all alleged providers of call-back in Saudi Arabia warning them that if they were to continue to provide call-back, they would face Commission enforcement action. Pursuant to Section 208 complaints filed by the Philippine Long Distance Telephone Company (PLDT), the Philippine dominant carrier, the Commission ordered three call-back providers to cease offering call-back in the Philippines.[13]

7. On March 19, 1998, TRA filed a petition requesting that we adopt a notice of proposed rulemaking to review the Commission's international call-back policy.[14] TRA asserts that much has changed since the Commission adopted its call-back policy in 1995. TRA argues that, given the World Trade Organization Agreement on Basic Telecommunications Services (WTO Basic Telecom

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[8] *See Hilton v. Guyot,* 159 U.S. 113, 163-64, 16S. Ct. 139, 143 (1895); Restatement (Third) of the Foreign Relations Law of the United States, § 101, comment e (1986).

[9] *See Call-back Reconsideration Order,* 10 FCC Rcd at 9557 (¶¶ 50-51).

[10] *See id.* at 9555-56 (¶ 47).

[11] *See id.* at 9558 (¶ 52).

[12] The Commission maintains a public file containing the submitted material, which is available in the Commission's public reference room located at 445 Twelfth St, SW, Washington, DC 20554. The Commission's website includes a list of the countries that have submitted material to the public file. *See* http://www.fcc.gov/ib/td/pf/call-back.html.

[13] *See Philippine Long Distance Telephone Company v. International Telecom, Ltd., D/B/A Kallback Direct,* Memorandum Opinion and Order, 12 FCC Rcd 15,001 (1997), *aff'd on reconsideration*, 15 FCC Rcd 6009 (2000); *Philippine Long Distance Telephone Company v. US Link, L.P. D/B/A USA Global Link,* Memorandum Opinion and Order, 12 FCC Rcd 12,010 (Com. Car. Bur. 1997), *aff'd on reconsideration*, FCC 00-109 (rel. Mar. 29, 2000); *Philippine Long Distance Telephone Company v. Dialback USA.. Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 12,023 (Com. Car. Bur. 1997).

[14] *See TRA Petition.*

Agreement)[15] and the United States' commitment to market-opening policies, "there can no longer be any policy justification for Commission recognition or enforcement of foreign laws . . . intended to restrain U.S. carriers from entering telecommunications markets."[16] As a result, TRA requests that the Commission reverse its comity-based call-back policy.

8. Pursuant to Section 1.401 of our rules, we issued a public notice seeking comment on TRA's petition.[17] Nine parties filed comments; seven parties filed reply comments. Several comments support TRA's petition.[18] Others contend that the WTO Basic Telecom Agreement does not justify reversal of the call-back policy, that such a reversal would violate the U.S. Government's commitments under the International Telecommunication Union, and that such action could prompt retaliation that could hamper the development of global competition.[19]

III. Discussion

9. Since it adopted the call-back policy in 1995, the Commission has taken significant steps to open the U.S. international market to competition and to enhance consumer benefits on U.S. international routes. During this period, moreover, the global commitment to competition policy has increased dramatically. Given these developments, we believe that it is appropriate to review the Commission's comity-based call-back policy. We therefore seek comment on whether we should eliminate the existing comity-based prohibitions and, thus, discontinue the policy that allows a foreign government or entity to make use of the enforcement mechanisms of the Commission to prohibit the U.S. carriers from offering one form of call-back abroad.

10. As the Commission stated in the *Call-back Reconsideration Order,* the doctrine of comity "is a discretionary means for U.S. Courts and agencies to take account of foreign sovereign acts, and therefore is distinct from obligations imposed under international law."[20] Comity involves a court or agency evaluation of the interest of the state and the interests of recognizing the laws of a foreign nation. As TRA observed in its petition, the U.S. Court of Appeals for the District of Columbia has stated that "[n]o nation is under an unremitting obligation to enforce foreign interests, which are fundamentally prejudicial to those of the domestic forum. Thus, from the earliest times, authorities have recognized that the obligation of comity expires when the strong public policies of the forum are vitiated by the foreign

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[15] The results of the WTO basic telecommunications services negotiations are incorporated into the General Agreement on Trade in Services (GATS) by the Fourth Protocol to the GATS, April 30, 1996, 36 I. L. M. 366 (1997). These results, as well as the basic obligations contained in the GATS, are referred to as the "WTO Basic Telecom Agreement."

[16] *TRA Petition* at 3.

[17] Public Notice, *Pleading Cycle Established for Comments on the Telecommunications Resellers Association Petition for Rulemaking Regarding the Commission's International Call-back Policy,* DA 98-592 (rel. Mar. 27, 1998)

[18] *See, e.g.,* Telegroup comments; USA Global Link, Inc. comments; Ursus comments.

[19] *See, e.g.,* Cable & Wireless, plc comments; Costa Rican Institute of Electricity comments; Compania Anonima Nacional Telefonos de Venezuela (CANTV) comments; Philippine Long Distance Telephone Company comments; Public Service Regulatory Commission of the Republic of Panama comments; Telkom SA Limited comments.

[20] *Call-back Reconsideration Order,* 10 FCC Rcd at 9555-9556 (¶ 47). The Commission made clear that foreign governments may not, simply by enacting domestic legal, regulatory, or procedural measures, require the United States to implement such measures as a matter of international law. *See id.*

act."[21]

11. As an initial matter, we note here that in the *Call-back Reconsideration Order*, the Commission declared that "foreign governments bear the principal responsibility for enforcing their domestic laws, *just as our mandate is to implement the statutory requirements of the Communications Act.*"[22] In February 1996, the Telecommunications Act of 1996 (1996 Act) became law, amending the Communications Act.[23] Congress directed the Commission "to provide for a pro-competitive, deregulatory national policy framework"[24] and mandated that, with respect to domestic markets, no state or local government could prohibit an entity from offering telecommunications services.[25] We believe that the congressional mandate to foster competitive telecommunications markets is instructive in the current context as we weigh our policy to promote procompetitive regulatory environments abroad[26] against the recognition and assistance in the enforcement of foreign laws intended to prohibit such competition. We seek comment on the impact of the 1996 Act on the Commission's comity-based call-back policy.

12. Since the call-back policy was adopted, the Commission has implemented several initiatives to promote competition in the U.S. market for international services and enhance consumer benefits on U.S. international routes.[27] On November 25, 1997, the Commission adopted the *Foreign Participation Order*, which set forth pro-competitive rules and policies regarding foreign participation in the U.S. telecommunications market.[28] In light of the World Trade Organization Basic Telecom Agreement and WTO members' commitments to open markets, the Commission determined in the *Foreign Participation Order* that it served the public interest to adopt rules to open further the U.S. market to competition from foreign companies. Also in 1997, the Commission adopted the *Benchmarks Order*, which requires U.S. carriers to reduce the settlement rates they pay to foreign carriers in order to limit above-cost payments in the absence of competitive forces on the foreign end of U.S. international routes.[29] Additionally, in the *ISP Reform Order*, the Commission limited application of the international settlements policy (ISP) to encourage rate competition among U.S. international carriers.[30] With these new policies, the Commission has sought to produce significant consumer benefits through lower prices for existing services and greater service innovation, as well as one-stop shopping resulting from newly-found efficiencies.[31]

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21 *TRA Petition* at 11 (quoting *Laker Airways, Ltd. v. Sabena, Belgian World Airlines*, 731 F.2d 909, 937 (D.C. Cir. 1984).

22 *Call-back Reconsideration Order*, 10 FCC Rcd at 9557 (¶ 50) (emphasis added).

23 Telecommunications Act of 1996, Pub. L. No. 104-104, 11 Stat. 56 *codified at* 47 U.S.C. ¶ 151 *et seq.*

24 *See* Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. Preamble (1996).

25 47 U.S.C. § 253 (a) ("No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.").

26 *See Foreign Participation Order*, 12 FCC Rcd 23,891.

27 *Id.*

28 *Id.*

29 *See Benchmarks Order*, 12 FCC Rcd 19,806.

30 Specifically, the Commission found that the ISP is no longer necessary in two circumstances: (1) for settlement arrangements between U.S. carriers and foreign carriers that lack market power, and (2) for settlement arrangements on routes where U.S. carriers are able to terminate at least fifty percent of their U.S. billed traffic at rates that are at least twenty-five percent below the applicable benchmark rate.

31 *Foreign Participation Order*, 12 FCC Rcd at 23,896-97 ¶ 10.

13. We also believe that the market opening commitments made by the United States as part of the WTO Basic Telecom Agreement further demonstrate the United States' dedication to an open, competitive global market for telecommunications services. The United States Government offered to open the U.S. market to telecommunications carriers from all other WTO members because of its commitment to competition, regardless of any particular member's market structure. The global commitment to competition policy, moreover, has increased dramatically since adoption of the Commission's policy on call-back. At that time, only a handful of the world's telecommunications markets were open to competition. During the WTO Basic Telecom Agreement negotiations which concluded in February 1997, seventy WTO members, including the United States and most of its major trading partners, took the historic step of committing to open their markets for basic telecommunications services. Based on this agreement, more than 95 percent the global telecommunications market, measured by revenue, is currently covered by commitments that remove restrictions on competition and foreign entry.[32] As Dr. Pekka Tarjanne, former Secretary-General of the International Telecommunications Union (ITU), said, "The landmark agreement . . . changes everything."[33]

14. Free and open competition benefits individual consumers and the global community by ensuring lower prices, new and better products and services, and greater consumer choice than occurs under monopoly conditions. In an open market, producers compete to win customers by lowering prices, developing new services that best meet the needs of customers. A competitive market promotes innovation by rewarding producers that invent, develop, and introduce new and innovative products and production processes. By doing so, the wealth of the society as a whole is increased. In a competitive environment, businesses that fail to understand and react to consumer needs face the loss of customers and declining profits.

15. We seek comment on whether the balancing of interests involved in the decision to adopt the call-back policy has shifted. We believe that the Commission should have a clear, consistent policy in favor of competition on U.S. international routes and foreign markets. This pro-competitive policy should extend to all forms of call-back. The current comity-based policy may be construed as diminishing the Commission's support for competitive forces.[34] Moreover, given the growth of alternative calling arrangements, we believe that the comity-based policy may create a dangerous precedent. As TRA notes, "the Commission would not want [the call-back policy] . . . to serve as a basis for schemes to block the growth of, for example, Internet services."[35] We therefore seek comment on whether it is no longer appropriate for the Commission to maintain comity-based prohibitions and engage in enforcement actions in support of foreign laws that serve to restrict competition.

16. In addition, we note here the difficulty of administering the current call-back policy. Commission staff has in many circumstances received incomplete information regarding the legality of call-back abroad and has experienced difficulty in determining the reliability of information submitted. As a result, Commission staff has to engage in resource-intensive analysis and interpretation of foreign

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[32] *See id.* at 293,895 (¶ 7).

[33] Dr. Pekka Terjanne, Secretary–General, ITU, "The 1998 Telecommunications Revolution," at 2 (presented May 27, 1997).

[34] *See, e.g., FCC Invites Exploitation with Softened Stance on Call-back Service,* Communications Resale Report, Sept. 15, 1997 (noting that the PLDT decisions "ultimately will frustrate global competition and invite exploitation of its policies by self-interested foreign entities").

[35] TRA reply comments at 11. *See also* Editorial, *Whose Side Is the FCC On?,* Wall St. J., Aug. 18, 1997, at A14 ("[I]f the FCC's stated policy on telephone deregulation and its intent to keep its regulatory tentacles out of cyberspace is to have any credibility at all, it should put these state-owned telecoms on notice: The U.S. will not enforce foreign laws antithetical to world-wide competition.").

laws. The call-back policy also requires the Commission to gauge the adequacy of foreign government efforts to enforce prohibitions against call-back activity. For these reasons, administration of the current call-back policy has proven to be extremely difficult.

17. We believe that eliminating the current policy would not constitute a rejection of the sovereign rights of any foreign government. Nor would it preclude or limit a foreign government's ability to adopt or enforce policies to prohibit call-back within its territory. We do not propose to mandate that a foreign government adopt the Commission's pro-competitive policies. We simply ask whether we should eliminate the use of the Commission's enforcement mechanisms to restrict competition in the international services market.

18. We also believe that our proposal is consistent with the ITU Kyoto Declaration regarding alternative calling mechanisms.[36] As an initial matter, we remain committed to our policies against the provision of call-back using any configuration that degrades the network[37] or that constitutes fraudulent activity.[38] The declaration directs that a member state should "take such actions as may be *appropriate within the constraints of its national law*" if a carrier subject to its jurisdiction offers call-back in violation of another member state's laws.[39] We emphasize here that we continue to believe that it is in the best interests of U.S. carriers to act in a manner consistent with foreign laws. Therefore we propose to continue to maintain a public file to inform call-back providers about the legality of call-back in foreign nations. We seek comment on whether, given the 1996 Act's commitment to competition and the Commission's recent policies to promote competitive markets abroad, elimination of the existing policy that allows a foreign government or entity to make use of the enforcement mechanisms of the Commission to prohibit U.S. carriers from offering call-back abroad is an appropriate response within the constraints of U.S. law and therefore is consistent with the ITU declaration.

19. We recognize that some parties oppose TRA's request for rulemaking.[40] One party argues that international policy changes designed to foster global competition, as reflected in the WTO Basic Telecom Agreement, should have no impact on policies purportedly based solely on the separate principle of international comity (such as the FCC's call-back rule).[41] Others assert that a change in policy would undermine the FCC's international credibility in fostering greater global competition and could prompt retaliation.[42] Commenters also claim that it is unfair for the Commission to change its policy with regard to nations that are not WTO members or did not make commitments to liberalize their markets.[43] We invite comment on these positions. We note that we will incorporate the comments received in response to the TRA petition into this rulemaking proceeding.

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36 *See* Final Act of the Plenipotentiary Conference (PP-94), Res. Com4/6 (Kyoto 1994) (Kyoto Declaration).

37 *See Call-back Reconsideration Order,* 10 FCC Rcd at 9546 (¶¶ 17-18) (supporting U.S. carrier efforts to eliminate "hot line" or "polling" methods of call-back).

38 *See* Public Notice, *International Bureau to Pursue Carriers Engaged in Fraudulent International Call-back,* Report No. IN 96-5 (Feb. 12, 1996) (announcing intention to sanction call-back providers that engage in suppression of answer supervision signaling).

39 Kyoto Declaration at ¶ 2 (emphasis added).

40 *See, e. g.,* Cable & Wireless, plc comments; Costa Rican Institute of Electricity comments; Compania Anonima Nacional Telefonos de Venezuela (CANTV) comments; Philippine Long Distance Telephone Company comments; Public Service Regulatory Commission of the Republic of Panama comments; Telkom SA Limited comments.

41 *See* Cable and Wireless comments at 5.

42 *See* PLDT reply comments at 2; CANTV comments at 5.

43 *See* Cable and Wireless comments at 5.

20. The availability of call-back service may be particularly beneficial to residents of developing countries. In general, the prices charged by national carriers for regular international service in developing countries tend to be higher than the prices of regular international service in developed countries. Call-back service gives consumers in developing countries access to international calling prices that are generally much lower than the prices offered by carriers in their countries. Thus, call-back service makes international calling more affordable in developing markets **[Copps edit]** and encourages customers to make calls that otherwise would not have been placed. Additionally, the availability of call-back can place downward pressure on prices in developing markets because international call-back provides a more competitive environment for the provision of international service.

21. The Public Service Regulatory Commission of the Republic of Panama suggests that call-back services severely impede the efforts of carriers in developing markets to extend and modernize their networks while reducing prices in order to introduce competition. The regulator suggests that the Commission can support liberalization efforts by maintaining the existing policy on call-back.[44] We take this opportunity to reaffirm our commitment to advancing the telecommunications sector in developing markets, and we emphasize here that our proposal should in no way be construed as a departure from this long-standing policy. We will continue to work in various fora to promote network expansion and universal access in developing markets. In this regard, the Commission is an active participant in the ITU's Development Sector, the Inter-American Telecommunications Commission (CITEL), and the Asia-Pacific Economic Cooperative (APEC). In addition, the Commission through its bilateral outreach works extensively with its counterparts in developing countries to address the challenges of regulating in a changing telecommunications environment. We therefore seek comment on what effect changing our policy would have on the provision of telecom services in developing markets. We intend for the Commission to continue to play a meaningful role to ensure that a robust telecommunications marketplace reaches all parts of the globe.

IV. Conclusion

22. Given developments in the international telecommunications market and consistent with our procompetitive policies, we propose to eliminate the Saudi Arabia and Philippines prohibitions and remove the policy that allows a foreign government or entity to make use of the enforcement mechanisms of the Commission to prohibit U.S. carriers from offering one form of call-back abroad.

V. Procedural Issues

A. *Ex Parte* Presentations

22. This is a non-restricted (*i.e.*, permit-but-disclose) notice-and-comment and rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.[45]

B. Initial Regulatory Flexibility Certification

23. The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. §§ 601-612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Pub, L. No. 104-121, Title II, 110 Stat. 857, requires an initial regulatory flexibility analysis in notice-and-comment proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a

[44] Public Service Regulatory Commission of the Republic of Panama comments.

[45] *See generally* 47 C.F.R. §§ 1.1202, 1.203, 1.1206.

substantial number of small entities."[46] The Commission is issuing this Notice of Proposed Rulemaking to seek comment on the possible elimination of existing comity-based prohibitions and removal of the policy that allows a foreign government or entity to use the enforcement mechanisms of the Commission to prohibit U.S. carriers from offering call-back abroad. The proposals do not impose any additional compliance burden on small entities dealing with the Commission. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[47] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[48] Accordingly, we certify, pursuant to Section 605(b) of the RFA, that the proposals, if promulgated, would not have a significant economic impact on a substantial number of small business entities, as defined by the RFA. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the RFA. This initial certification will also be published in the Federal Register.[49]

C. Initial Paperwork Reduction Act of 1995 Analysis

33. This Notice of Proposed Rulemaking does not contain either a proposed or a modified information collection. As a result, we need not seek comment on the impact of this Notice on information collections, pursuant to the Paperwork Reduction Act of 1995, Pub. L. No. 104-13.

D. Comment Filing Procedures

34. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before April 14, 2002, and reply comments on or before May 14, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322, 11326 (1998).

35. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Or you may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at http://www.fcc.gov/efile/email.html.

36. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to

[46] 5 U.S.C. § 605(b).

[47] 5 U.S.C. § 601(6).

[48] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[49] 5 U.S.C. § 605(b).

the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, D.C. 20554. One copy of all comments should also be sent to the Commission's copy contractor, Qualex, Portals II, 445 12th St., SW, Room CY-B402, Washington, D.C. 20054. Documents filed in this proceeding will be available for public inspection during regular business hours in the FCC Reference Information Center of the Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and will be placed on the Commission's Internet site.

V. Ordering Clauses

38. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4 (i)-(j), 201 (b), 214,303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. § § 151, 154 (i)-(j), 201 (b), 214, 303 (r), and 403, this Notice of Proposed Rulemaking IS HEREBY ADOPTED.

39. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau's Reference Information Center SHALL SEND a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary