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May 9, 2002

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445-12th Street, S.W.  
Washington, D.C. 20554

Re: XO Communications, Inc.  
Applications for Consent to Transfer of Control  
IB Docket No. 02-50

Dear Ms. Dortch:

XO Communications, Inc. ("XO"), by its attorneys, hereby submits additional information to supplement the information provided in the applications captioned above. The information set forth below was requested by Commission staff in a meeting held on March 5, 2002 between representatives of XO and members of the Common Carrier Bureau, International Bureau, Office of the General Counsel, and Wireless Telecommunications Bureau.<sup>1</sup> XO has delayed in submitting this information to the Commission because of the continuing uncertainty about the details of XO's corporate restructuring

As explained in XO's Application for Transfer of Control and Petition for Declaratory Ruling ("Application and Petition"), XO requests the Commission's consent to the

<sup>1</sup> Based on recent telephone conversations between XO's counsel and representatives of the Federal Bureau of Investigation ("FBI"), it is XO's understanding that the FBI and possibly other Executive Branch agencies believe that certain aspects of the applications may raise potential national security, law enforcement, and/or public safety issues. Should proceedings in this docket continue, XO understands that grant of the applications may be deferred pending and conditioned upon a resolution of those aspects of the applications that the FBI and other Executive Branch agencies believe may raise these issues.

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transfer of control of XO from Craig O. McCaw and the existing shareholders of XO to the new shareholders of XO, which will include, as 10 percent or greater shareholders, Forstmann Little & Co. Equity Partnership-VII, L.P. ("Forstmann Little Equity VII"), Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P. ("Forstmann Little MBO VIII") (Forstmann Little Equity VII and Forstmann Little MBO VIII, collectively "Forstmann Little"), and an indirect wholly-owned subsidiary of Teléfonos de México, S.A. de C.V. ("Telmex"). XO also seeks a declaratory ruling pursuant to Section 310(b)(4) that it will not serve the public interest to prohibit indirect foreign ownership of XO's wireless licenses in excess of the statutory 25 percent foreign ownership benchmark by Telmex and Gordon A. Holmes. Mr. Holmes is a general partner of the partnership that is a general partner of Forstmann Little.

#### **I. Competitive Impact Analysis.**

As an initial matter, XO notes that the proposed transaction is not a merger. No actual or potential competitors are eliminated or otherwise unduly impacted by the proposed transaction. Neither Telmex nor Forstmann Little will individually have majority control of XO post-closing. There is no agreement between Telmex and Forstmann Little to act in concert to control XO, although as discussed in the Application and Petition, Forstmann Little and Telmex have agreed to vote for the election of each other's board designees. Although both Telmex and Forstmann Little own and control or are otherwise affiliated with entities that are authorized to provide service in some or all of the same geographic and service markets as XO (as discussed below), these entities will not be adversely or positively affected by the proposed transaction. The Stock Purchase Agreement, dated January 15, 2002, among XO, Telmex and Forstmann Little ("Purchase Agreement"), does not prohibit Forstmann Little and Telmex from competing with XO and does not obligate either Forstmann Little or Telmex to present business opportunities to XO. If either Telmex or Forstmann Little attempts to leverage its interest in XO for the benefit of any affiliated company, the other investor could block such actions through XO's board of directors.

However, if it is assumed for the sake of argument that the investment of Forstmann Little and Telmex in XO necessitates an analysis of the competitive effects of the transaction as a result of existing or proposed telecommunications operations or investments of Forstmann Little and Telmex in the U.S. (*i.e.*, with Telmex USA, L.L.C. ("Telmex USA") and McLeodUSA Incorporated ("McLeod")), there is no reason to believe that competition will be adversely affected in the markets served.<sup>2</sup>

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<sup>2</sup> In the Application and Petition, XO noted that Forstmann Little funds control Citadel Communications Corporation ("Citadel"). XO's analysis does not include Citadel since that company does not provide telecommunications services.

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In analyzing the competitive effects of a transfer of control, the Commission defines the relevant product and geographic markets; identifies current and potential participants in each relevant market, especially those that are likely to have a significant competitive effect; evaluates the effects that the transaction may have on competition in the relevant markets; and considers whether the proposed transaction will result in transaction-specific efficiencies, such as cost reductions, productivity enhancements, or improved incentives for innovation. Ultimately, the Commission weighs any harmful and beneficial effects to determine whether, on balance, the proposed transaction will serve the public interest, convenience and necessity.<sup>3</sup>

*Areas of overlap.* Both Telmex USA and XO are authorized to provide international services to all points on a resale basis. However, Telmex USA is not presently providing telecommunications services in the U.S.

XO and McLeod are considered competitive local exchange carriers ("CLECs"). Both carriers offer high-speed Internet access, including DSL and dedicated access, as well as local and long distance voice services, including bundled offerings. XO and McLeod target small and medium-sized business users. Both companies use a combination of their own facilities and resold facilities to provide domestic services, but rely on resale to provide international services. Both XO and McLeod provide services via fiber optic and other wireline facilities and hold LMDS licenses.

Both XO and McLeod offer exchange service and exchange access in the following states: Arizona, Colorado, Illinois, Michigan, Minnesota, Missouri, Ohio, Texas, Utah, and Washington. McLeod sells other products and services primarily on an incidental basis to its local service customers in these states. XO offers products and services other than local services on a nationwide basis.

*International services.* Neither Telmex USA, XO, nor McLeod are significant participants in the U.S. market for international telecommunications services. As noted previously, Telmex USA currently does not provide telecommunications services in the U.S. XO provides services only on a resale basis; its international service revenues in 2000 were \$5.6

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<sup>3</sup> See, e.g., *VisionStar, Inc.*, 24 CR 1326 (Oct. 30, 2001); *VoiceStream Wireless Corp. or Omnipoint Corp., et. al*, Memorandum Opinion and Order, FCC 00-53, rel. Feb. 15, 2000, at ¶ 21. Since this case proposes an investment by a foreign carrier, the Commission's determination is also guided by the U.S. Government's commitment under the World Trade Organization Basic Telecommunications Agreement ("WTO Basic Telecom Agreement"). *Id.* XO demonstrated in the Application and Petition that the proposed foreign investment in XO is entirely consistent with the commitments made by the U.S. in connection with the WTO Basic Telecom Agreement and with the Commission's decisions on foreign participation in the U.S. telecommunications market. See Application and Petition at 20-23.

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million, which equates to .04% of the total U.S.-billed international service revenues that year.<sup>4</sup> McLeod is also a reseller, and its 2000 international revenues were \$64.3 million (.43% of total U.S.-billed international revenues in 2000).<sup>5</sup> There are many significantly stronger competitors providing international service in the U.S. For example, based on year 2000 revenues, AT&T's share of total U.S.-billed revenues was 36.1% (\$5.4 billion); WorldCom's was 45.2% (\$6.8 billion); and Sprint's was 7.8% (\$1.2 billion).<sup>6</sup> As such, even assuming a combination of Telmex USA, XO, and McLeod, such a combination could not possibly result in a significant loss of competition in the market for international telecommunications services.

As discussed in the Application and Petition, Telmex provides telecommunications services in Mexico and is affiliated under the Commission's Rules with a carrier in Guatemala.<sup>7</sup> The presence of strong competitors in the U.S. international telecommunications market, including but not limited to AT&T, WorldCom, and Sprint, negates any ability or incentive for Telmex to engage in predatory pricing on the U.S. – Mexico and U.S. – Guatemala routes. XO notes that the Commission reached a similar conclusion in *DT/VoiceStream* with respect to Deutsche Telekom's ("DT's") acquisition of VoiceStream and the ability of DT to engage in anticompetitive behavior on the U.S. – Germany route.<sup>8</sup> In addition, as noted in the Application and Petition, U.S.-affiliated carriers (led by AT&T-affiliated Alestra and WorldCom-affiliated Avantel) have captured approximately 32 percent of Mexico's long distance market and approximately 42 percent of the outgoing traffic on the U.S. – Mexico route. This level of competition in the Mexican telecommunications market provides a further basis for concluding that Telmex's investment in XO could not threaten competition in the U.S. Also, settlement rates on the U.S. – Mexico route are at benchmark.<sup>9</sup> More

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<sup>4</sup> See Common Carrier Bureau, Industry Analysis Division, *2000 International Telecommunications Data*, December 2001, Figure 9 and Table D ("*2000 International Telecommunications Data*").

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at Figure 9.

<sup>7</sup> As noted in the Application and Petition, Telmex is also affiliated under the Commission's Rules with a carrier in Argentina, but that carrier is a new competitor in the market and is therefore not considered to be dominant in Argentina. Application and Petition at 22, n.26.

<sup>8</sup> See *VoiceStream Wireless Corp., Powertel, Inc., and Deutsche Telekom AG et al.*, Memorandum Opinion and Order, FCC 01-142, rel. Apr. 27, 2001, at ¶¶ 98-99 ("*DT/VoiceStream*"). Telmex's investment in XO poses less of a threat to competition than DT's acquisition of VoiceStream, since DT acquired a controlling interest in VoiceStream and DT has significant foreign government ownership.

<sup>9</sup> In May 2001, Telmex had agreed with most of its U.S. correspondents to reduce settlement rates to \$0.155 per minute for 2001, \$0.135 for 2002, and \$0.10 for 2003, and

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importantly, accounting rates substantially below the benchmark have been agreed to by Telmex and various U.S. carriers, including WorldCom and AT&T, and petitions for waivers of the international settlements policy in order to implement these accounting rate reductions are currently pending before the Commission.<sup>10</sup> The FCC has recognized that the ability of foreign carriers to engage in anticompetitive behavior is significantly diminished when settlement rates are at or below benchmark.<sup>11</sup> Finally, XO notes that both XO and its wholly-owned subsidiary, XO Long Distance Services, Inc. ("XO Long Distance"), have agreed to dominant carrier regulation on the U.S. – Mexico and U.S. – Guatemala routes to provide even greater assurance that Telmex's presence in the U.S. market as an investor in XO will not threaten competition.<sup>12</sup>

*Domestic services.* The domestic markets in which XO and McLeod operate are very competitive, with multiple players in each market. The Commission has previously recognized that the Internet access markets and long distance markets are highly competitive.<sup>13</sup>

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to set settlement rates by free-market negotiations for 2004. Telmex has advised XO that the Mexican regulator approved this agreement in June 2001.

<sup>10</sup> See Petition of WorldCom for Waiver of the International Settlements Policy in File No. ARC-MOD-20020322-00015, filed Mar. 22, 2002 ("MCI Petition"). AT&T filed a petition for waiver as well on April 19, 2002. Per Telmex's agreement with the U.S. carriers, the settlement rate would drop to \$0.155 in each direction for the period January 1, 2001 through December 31, 2001, and then decrease again for the period January 1, 2002 through February 28, 2002 to \$0.135 in each direction. For the period March 1, 2002 through December 31, 2003, different settlement rates would apply for southbound (U.S. carrier to Mexican carrier) and northbound (Mexican carrier to U.S. carrier) traffic. Specifically, all northbound traffic would be settled at a rate of \$0.055 per minute. The applicable southbound settlement rate would depend on the termination location and type of traffic, but would range from \$0.055 for IMTS traffic terminating in the three largest cities in Mexico (Mexico City, Guadalajara, and Monterrey), to \$0.085 for IMTS traffic terminating in the next roughly 200 large and medium-sized cities in Mexico, to \$0.1175 for IMTS traffic terminating in any other location in Mexico. Telmex has reached agreement on these reductions with all of its U.S. correspondents. The agreement also contemplates changes in Mexico's rules so as to enable free-market negotiations for the termination of international traffic as of January 1, 2004.

<sup>11</sup> See *In Re International Settlement Rates*, Report and Order, FCC 97-280, rel. Aug. 18, 1997, at ¶ 34; Report and Order on Reconsideration and Order Lifting Stay, FCC 99-124, rel. June 11, 1999, at ¶ 33.

<sup>12</sup> Even without this commitment to dominant carrier regulation, XO and XO Long Distance would still be prohibited from engaging in anticompetitive behavior with Telmex on the U.S. – Mexico or U.S. – Guatemala routes as a result of the prohibition, applicable to all U.S. international common carriers, on agreeing to accept special concessions. See 47 C.F.R. § 63.14.

<sup>13</sup> See *Vanguard Cellular Systems, Inc., Transferor, and Winston, Inc.*, 14 FCC Rcd 3844 (1999) at ¶ 22 (Internet access); *360Degrees Communications Company, Transferor, and*

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With respect to local exchange services, there are at least four CLECs in addition to the incumbent local exchange carrier ("ILEC") providing service in each state in which XO and McLeod operate.<sup>14</sup> Even assuming a combination of XO and McLeod, a combination that is not currently contemplated by the parties, the presence of other competitors in these markets means that it will not be possible for such a merged company to act in an anticompetitive manner.<sup>15</sup>

Neither XO nor McLeod are uniquely situated in any product or geographic market in which they provide services. Neither company possesses scarce assets or capabilities with respect to the target markets, and thus any assumed combination of XO and McLeod would not eliminate any such scarce assets or capabilities. The Commission has previously recognized that mergers that do not eliminate scarce assets or capabilities do not present a negative competitive impact.<sup>16</sup>

In light of these facts, any assumed combination of XO and McLeod would not result in a significant loss of competition in the market for domestic telecommunications services.

*Public interest benefits of the transaction.* As discussed in the Application and Petition, XO is one of the few remaining large CLECs and is in declining financial health. The proposed transaction will provide critical funding for XO and a substantial reduction in its debt that should preserve and strengthen XO. It should enable XO to continue as a serious competitor to the ILECs by providing XO with the necessary funding for implementing its business plan.<sup>17</sup> Without the proposed funding and balance sheet restructuring, XO's financial stability could be significantly compromised and services to customers could be adversely affected. As such, the

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*ALLTEL Corporation, Transferee*, 14 FCC Rcd 2005 (1998) at ¶ 26 (long distance market). Based on total toll service revenues, the combined share of the domestic long distance market for AT&T, WorldCom and Sprint in 2000 exceeded 64 percent. See Industry Analysis Division, Common Carrier Bureau, *Trends in Telephone Service*, Aug. 2001, at Table 10.9.

<sup>14</sup> See Industry Analysis Division, Common Carrier Bureau, *Local Telephone Competition: Status as of June 30, 2001*, Feb. 2002, at Table 8.

<sup>15</sup> See *DT/VoiceStream*, *supra* note 8, at ¶ 99.

<sup>16</sup> See *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Tele-Communications, Inc., Transferor to AT&T Corp., Transferee*, 14 FCC Rcd 3160 (1999) at ¶ 50.

<sup>17</sup> XO expects that it will file for bankruptcy under Chapter 11 of the Bankruptcy Code in order to effectuate any agreement reached with its creditors regarding XO's balance sheet restructuring or if it cannot reach agreement with its creditors. Should XO file for bankruptcy, XO will at that time file the appropriate *pro forma* applications with the Commission to transfer control of XO to XO as debtor-in-possession and make appropriate amendments to the pending transfer of control applications.

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proposed transaction will preserve and strengthen competition in the telecommunications industry, to the ultimate benefit of the public. The Commission has recently recognized that the competitive impact of a transaction that allows a licensee to emerge from bankruptcy and continue operations is likely to be beneficial.<sup>18</sup>

In light of these facts, it is clear from the balance of all potential negative and positive effects that the proposed investment of Telmex and Forstmann Little will enhance competition in the relevant markets.

## **II. XO Traffic on U.S. – Mexico and U.S. – Guatemala Routes.**

All of XO's traffic on both the U.S. – Mexico and U.S. – Guatemala routes is switched resale. XO resells the switched services of AT&T, Global Crossing, Qwest, and WorldCom on both routes.

## **III. Additional Information on Forstmann Little.**

### *A. Explanation of how the individual general partners of FLC XXXII and FLC XXXIII function.*

As discussed in the Application and Petition, Forstmann Little Equity VII, which proposes to hold approximately 25 percent of the voting stock of XO, and Forstmann Little MBO VIII, which proposes to hold approximately 15 percent of the voting stock of XO, are each Delaware limited partnerships. The general partner of Forstmann Little Equity VII is FLC XXXII Partnership, L.P. ("FLC XXXII"), a New York limited partnership. The general partner of Forstmann Little MBO VIII is FLC XXXIII Partnership, L.P. ("FLC XXXIII"), a New York limited partnership. The general partners of both of those general partner entities are: Theodore J. Forstmann, Sandra J. Horbach, Winston W. Hutchins, Thomas H. Lister, Jamie C. Nicholls, and Gordon A. Holmes. With the exception of Mr. Holmes, who is a citizen of the Republic of Ireland, all of the general partners are U. S. citizens.

Under the partnership agreements governing both FLC XXXII and FLC XXXIII, the management of the business and affairs of the partnerships is vested exclusively in the partner designated as the Senior Partner. In both partnerships, Theodore J. Forstmann is the Senior Partner. The Senior Partner has the right to delegate to any other general partner those

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<sup>18</sup> See *Orbital Communications Corp and ORBCOMM Global, L.P., et al*, Order and Authorization, DA 02-576, rel. Mar. 11, 2002; *Space Station System Licensee, Inc. and Iridium Constellation LLC, et al.*, Memorandum Opinion, Order and Authorization, DA 02-307, rel. Feb. 8, 2002.

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duties and responsibilities as he sees fit in his sole discretion. No general partner may take any action to commit the partnership on any transaction without the approval of the Senior Partner. There is no formal management board.

*B. Diagram of Forstmann Little ownership structure.*

The diagram requested is provided in Attachment 1.

*C. Contact information.*

Contact information for Forstmann Little is as follows:

Wayne D. Johnsen  
Peter Shields  
Nicole Rothstein  
WILEY REIN & FIELDING, LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
Telephone: (202) 719-7303  
Fax: (202) 719-7049

**IV. Additional Information on Telmex.**

*A. Demonstration that Telmex's "home market" is Mexico.*

In determining a foreign entity's home market for purposes of the public interest determination under Section 310(b)(4), the Commission identifies and balances the following factors: (1) the country of its incorporation, organization, or charter; (2) the nationality of all investment principals, officers, and directors; (3) the country in which its world headquarters is located; (4) the country in which the majority of its tangible property, including production, transmission, billing, information, and control facilities, is located; and (5) the country from which it derives the greatest sales and revenues from its operations.<sup>19</sup> Using this test, Telmex's home market is Mexico. Telmex is incorporated in Mexico, and its world headquarters is located there. Mexico is the country in which a majority of Telmex's tangible property is located and from which Telmex derives the greatest sales and revenues from its operations. With respect to the nationality of Telmex's investment principals, officers, and directors, Carso Global Telecom, S.A. de C.V., a Mexican company, controls Telmex. All of Telmex's officers are citizens of

<sup>19</sup> See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23941 (1997), citing *Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order, 11 FCC Rcd 3873, 3951, ¶ 207 (1995).

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Mexico. Of the 16 directors, 13 are citizens of Mexico, and three are citizens of the United States; of the 16 alternate directors, 15 are citizens of Mexico and one is a citizen of the United States.

As noted in the Application and Petition, the Commission has previously recognized that Mexico is Telmex's home market for purposes of Section 310(b)(4) analysis.<sup>20</sup>

*B. Exchanges on which Telmex shares trade.*

Telmex has three different classes of shares. The L and A shares are publicly traded; the AA shares are not.

The L Share American Depository Shares ("ADSs"), each representing 20 L Shares of Telmex, are issued by Morgan Guaranty Trust Company of New York, or the Depository, as depository for the L Share ADSs. The L Share ADSs are traded on the New York Stock Exchange and listed on the Frankfurt Stock Exchange, and the L Shares are traded on the Mexican Stock Exchange and listed on the Mercado de Valores Latinoamericano ("Latibex") in Madrid, Spain.

In November 2000, Telmex established a sponsored ADS program for the A Share ADSs. The A Share ADSs, each representing 20 A Shares of Telmex, are issued by the Depository, as depository for the A Share ADSs. Holders of over 91 percent of the A Share ADSs issued under the unsponsored ADS programs, each representing one A share, have exchanged their A Share ADSs for those issued by the Depository under the sponsored program. Holders who do not exchange will not receive dividends and eventually will escheat their A Share ADSs to their respective states. The A Shares are traded on the Mexican Stock Exchange, and the sponsored A Share ADSs are quoted on the NASDAQ SmallCap Market. Trading has ceased with respect to the unsponsored A Share ADSs.

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<sup>20</sup> See *Wireless Telecommunications Bureau and International Bureau Complete Review of Proposed Investment by Teléfonos de México, S.A. de C.V. in Parent of Cellular Communications of Puerto Rico*, Public Notice, 15 FCC Rcd 1227 (1999); see also *Cellular Communications of Puerto Rico Inc.*, Petition for Declaratory Ruling, Grant of Authority, File No. ISP-PDR-20010606-00056, Report No. TEL-00488 (released Jan. 11, 2002) (consenting to transfer of control of non-controlling interest in holding company of licensees from Telmex to America Movil, and subsequently to transfer of control of America Movil from Carso Global Telecom to America Telecom, pursuant to Section 310 (b)(4)). In January 2002, America Movil transferred its interest to SBC, which already controlled the other investor in the licensee.

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*C. Officers and directors of Telmex and their nationalities.*

A listing of the officers and directors of Telmex is provided in Attachment 2.

*D. All 10 percent or greater shareholders of Telmex and their nationalities.*

Carso Global Telecom, S.A. de C.V., a Mexican holding company, holds approximately 31 percent of Telmex's total capital stock and controls the company. Carso Global Telecom is controlled by a trust for the benefit of Mr. Carlos Slim Helú and members of his immediate family, all of whom are Mexican citizens. There are no other 10 percent or greater shareholders of Telmex's capital stock.

*E. Break-out of nationalities of shareholders and estimate of percentage of non-U.S. and non-Mexican shareholders.*

Carso Global Telecom, a Mexican corporation, holds approximately 31 percent of Telmex's total capital stock. SBC International, Inc., a U.S. corporation and a subsidiary of the U.S. telecommunications company SBC Communications, Inc., holds approximately 8 percent of Telmex's total capital stock. While it is believed that the vast majority of the remaining shares are in the hands of U.S. citizens, there is no data available as to the citizenship of the remaining shareholders.

Telmex's data reflects only the registered addresses of its shareholders, with the majority of such addresses being in the United States. At December 31, 2000, 80.7 percent of Telmex's outstanding L Shares were represented by L Share ADSs, and 99.9 percent of the L Share ADSs were held by 18,656 holders (including The Depository Trust Company) with registered addresses in the United States. In November 2000, Telmex established a sponsored ADS program for the A Share ADSs. At December 31, 2000, 27.7 percent of Telmex's A Shares were held in the form of A Share ADSs and there were 10 holders (including the Depository Trust Company) with registered addresses in the United States. Telmex has no information concerning holdings of A Shares and L Shares that are not represented by ADSs, or A Share ADSs that are held under the unsponsored A Share ADS programs, which antedate the establishment of the sponsored program, and have not been exchanged for ADSs issued under such sponsored program, by holders with registered addresses in the United States. All AA shares are owned by (1) Carso Global Telecom, (2) SBC International and (3) various other Mexican investors, such that there are no holders of AA shares who are not citizens of either Mexico or the United States. Taking all classes of shares together, at December 31, 2000, the holders of 39.43 percent of Telmex's shares had registered addresses in Mexico; the holders of 60.5659 percent of Telmex's shares had registered addresses in the United States; and the

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holders of 0.0041 percent of Telmex's shares had registered addresses in countries other than Mexico or the United States.

*F. Contact information.*

Contact information for Telmex is as follows:

Gary M. Epstein  
Teresa D. Baer  
LATHAM & WATKINS  
555 11<sup>th</sup> Street, N.W.  
Suite 1000  
Washington, D.C. 20004-1304  
Telephone: (202) 637-2200  
Fax: (202) 637-2201

**V. Contracts Between Forstmann Little and Telmex With Respect to XO.**

Other than the Purchase Agreement (provided in Annex D to the Application and Petition), Forstmann Little and Telmex have executed three agreements that concern XO. These agreements are a confidentiality agreement; a letter agreement, of which the only surviving provisions relate to a standstill agreement in which the parties agree not to engage in discussions with other parties about investments in XO or purchase other securities in XO until June 30, 2002; and a letter agreement regarding the allocation of expenses reimbursed pursuant to the Purchase Agreement. None of these agreements concerns the governance of XO. XO will provide copies of these agreements to the Commission upon request. XO notes that Telmex and Forstmann Little may in the future enter into other agreements that concern XO, including but

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not limited to an agreement concerning the retention of a financial advisor, ancillary agreements contemplated by (or for which a form of which is an exhibit to) the Purchase Agreement, and a separate stockholders agreement with XO's management relating to the ownership and transfer of shares by management.

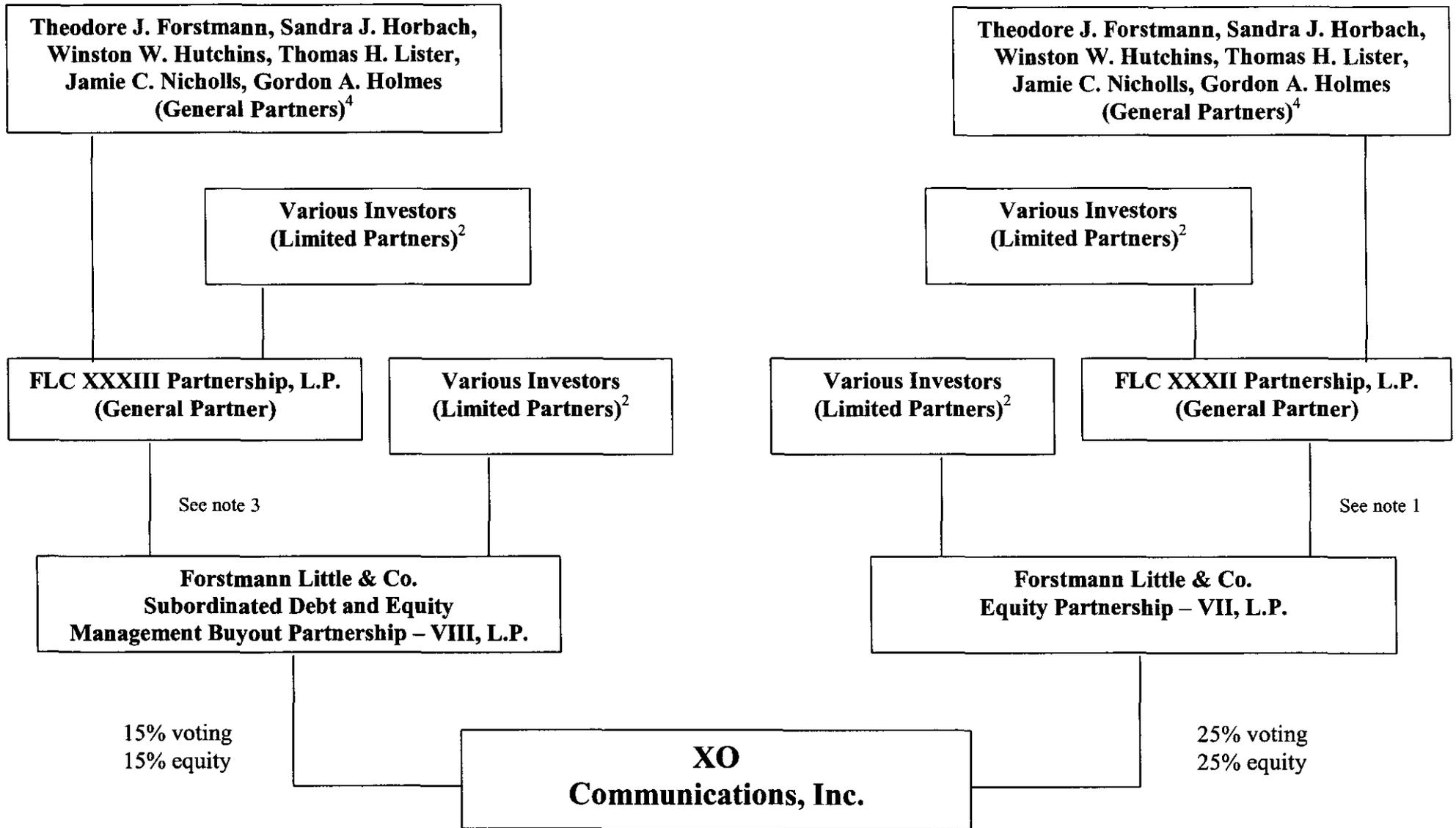
Sincerely,

**XO COMMUNICATIONS, INC.**

By:   
Brad E. Mutschelknaus  
Joan M. Griffin  
Its Attorneys

cc: George Li  
Claudia Fox  
Susan O'Connell  
Imani Ellis-Cheek  
Zenji Nakazawa  
Elizabeth Yockus  
Bill Dever  
Neil Dellar  
Jim Bird

# STRUCTURE OF FORSTMANN LITTLE INVESTMENT IN XO COMMUNICATIONS, INC.



Notes:

- <sup>1</sup> In terms of capital contribution, FLC XXXII holds a 2.56% interest in Equity VII. In terms of share of the profits, FLC XXXII holds a 21.25% interest in Equity VII.
- <sup>2</sup> Based on the Commission's methodology for determining the level of interests held indirectly, no investor who is a limited partner in FLC XXXIII, FLC XXXII, Equity VII, or MBO VIII will hold 10% or more of XO under the FCC's ownership attribution rules. It is not anticipated that any of the limited partners of FLC XXXIII and FLC XXXII will hold an economic interest in the XO investment.
- <sup>3</sup> In terms of either capital contribution or share of the profits, FLC XXXIII holds less than a 1% interest in MBO VIII.
- <sup>4</sup> All of the individual general partners are citizens of the U.S. except Mr. Holmes, who is a citizen of the Republic of Ireland.

**OFFICERS OF TELMEX**

<b>Name</b>	<b>Position</b>	<b>Nationality</b>
Jaime Chico Pardo	General Manager and Chief Executive Officer	Mexico
Isidoro Ambe Attar	Commercial Corporate Market	Mexico
Adolfo Cerezo Pérez	Chief Financial Officer	Mexico
Javier Elguea Solís	Dean of Inttelmex	Mexico
Jaime Pérez Gómez	Human Resources	Mexico
Arturo Elías Ayub	Strategic Alliances, Communication and Institutional Relations	Mexico
Eduardo Gómez Chibli	Technical and Long Distance	Mexico
Javier Mondragón Alarcón	General Counsel	Mexico
Héctor Slim Seade	Operational Support	Mexico
Andrés R. Vázquez del Mercado Benshimol	Strategic Development	Mexico
Oscar Von Hauske Solís	Telecommunication Carriers, Systems and Processes	Mexico
José Manuel Pacheco Gamboa	Special Projects	Mexico
Patrick Slim Domit	Commercial Residential Market	Mexico

### DIRECTORS OF TELMEX

Name	Nationality
Carlos Slim Helú	Mexico
Jaime Chico Pardo	Mexico
Juan Antonio Pérez Simón	Mexico
Carlos Slim Domit	Mexico
Antonio Cosío Ariño	Mexico
Amparo Espinosa Rugarcía	Mexico
Elmer Franco Macías	Mexico
Angel Losada Moreno	Mexico
Rómulo O'Farrill Jr.	Mexico
Emilio Azcárraga Jean	Mexico
Fernando Senderos Mestre	Mexico
Mark E. Royse	U.S.A.
Janet M. Duncan	U.S.A.
James W. Callaway	U.S.A.
Rafael Kalach Mizrahi	Mexico
Ricardo Martín Bringas	Mexico

### ALTERNATE DIRECTORS

Name	Nationality
Jaime Alverde Goya	Mexico
Antonio del Valle Ruíz	Mexico
Angeles Espinosa Rugarcía	Mexico
Jorge Esteve Campdera	Mexico
Agustín Franco Macías	Mexico
Humberto Gutierrez Olvera Z.	Mexico
José Kuri Harfush	Mexico
Marco Antonio Slim Domit	Mexico
Patrick Slim Domit	Mexico
Arturo Elías Ayub	Mexico
Carlos Bernal Vereá	Mexico
Federico Laffan Fano	Mexico
Eduardo Valdes Acra	Mexico
John B. Gibson	U.S.A.
Bernardo Quintana Isaac	Mexico
Sergio F. Medina Noriega	Mexico

**CERTIFICATE OF SERVICE**

I, Charles "Chip" M. Hines III, hereby certify that a true and correct copy of the foregoing Letter from XO Communications in IB Docket No. 02-50 was served on this 9<sup>th</sup> day of May 2002 on the individuals in the following list:

*Delivered via U.S. Mail:*

Scott Burnside  
Senior Vice President, Regulatory  
and Government Affairs  
RCN Corporation  
100 Lake St.  
Dallas, PA 18612

A handwritten signature in black ink that reads "Charles W. Hines III". The signature is written in a cursive style with a large, stylized initial "C".

Charles "Chip" M. Hines III