Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
International Settlements Policy Reform	)	IB Docket No. 02-324
International Settlement Rates	)	
	)	IB Docket No. 96-261

COMMENTS OF VERIZON

Of Counsel
Michael E. Glover
Edward H. Shakin

Kathleen M. Grillo

1515 North Courthouse Road
Suite 500
Arlington, VA 22201
Tel (703) 351-3071
Fax (703) 351-3658

January 14, 2003

Contents

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
International Settlements Policy Reform	)	IB Docket No. 02-324
International Settlement Rates	)	
	)	IB Docket No. 96-261

COMMENTS OF VERIZON[1]

INTRODUCTION

The increasingly competitive conditions in the international telecommunications market merit reform of the International Settlements Policy ("ISP").[2] The Commission correctly notes that the landscape of this market has changed considerably since the Commission last considered reform of the ISP. The average U.S.- international settlement rate has fallen to 14 cents in 2001 from 35 cents in 1997, and U.S. calling prices have fallen to 33 cents in 2001 from 67 cents since the Benchmark Order was issued in 1997. *NPRM* ¶ 1. The number of U.S.-authorized international service providers has grown to more than 3,900 and there are now over 4,000 global carriers worldwide. *NPRM* ¶¶ 16, 19. In this increasingly competitive market, the Commission should eliminate the ISP and its associated filing requirements on all routes that are approved for International Simple Resale ("ISR"). The Commission should also maintain the current benchmark settlement rates.

1 The Verizon 214 Licensees ("Verizon") are various subsidiaries and affiliates of Verizon Communications Inc. holding international Section 214 authorizations, listed in Attachment A.

2 *International Settlements Policy Reform, International Settlement Rates*, IB Docket Nos. 02-324, 96-261, Notice of Proposed Rulemaking, FCC 02-285 (rel. Oct. 11, 2002) (*"NPRM"*).

The Commission should refrain from regulating foreign mobile termination rates. Since the Commission's last ISP reform proceeding, roughly 100 countries have established independent telecommunications regulators. Many of these local regulators, working with a detailed understanding of mobile cost structures and demand elasticities in a "calling party pays" environment, have confronted and addressed the issue of high mobile termination rates. It is these local regulators, not the Commission, who are in the best position to decide whether to regulate such rates. Instead, the Commission should focus its attention on promoting U.S. consumer awareness of areas where higher mobile termination rates and possible surcharges may apply.

I. COMPETITIVE MARKET CONDITIONS HAVE ELIMINATED THE NEED FOR THE ISP ON ISR-APPROVED ROUTES

In this increasingly competitive market, the ISP is not necessary on routes where the Commission authorizes U.S. carriers to provide ISR. In large part, the increased competition in the telecommunications market has thrived because of the growth of ISR. ISR permits a U.S. carrier to interconnect directly with a local operator by terminating switched services over international private lines instead of relying on the traditional relationship with a foreign international carrier. This ability for U.S. carriers to "bypass" the traditional settlement structure encourages foreign carriers to negotiate lower settlement rates. The Commission allows ISR on routes between the U.S. and other World Trade Organization member countries where at least fifty percent of the U.S.-billed traffic is being settled at or below the relevant benchmark. On routes between the U.S. and non-WTO member countries, the foreign country must also offer "equivalent" resale opportunities.

ISR is the most widely used alternative to the settlement rate system. In its 2001 year-end circuit status report, the International Bureau concluded that International Private Line Service accounted for 76% of the total number of activated circuits for U.S.-international facilities based carriers while International Message Telephone Service accounted for only 16%.[3] The most competitive markets in the world, including the European Union, Canada and Japan, now allow ISR. In 2001, 18.8 billion minutes of U.S.-originated traffic (approximately 50% of total U.S. traffic) were sent by means of ISR.[4]

The ISP is no longer necessary on routes where ISR is approved. On ISR-approved routes, U.S. carriers are no longer required to negotiate operating agreements with legally protected monopolists. U.S. carriers on these routes can bypass the traditional settlement rate structure by negotiating a termination rate directly with the local exchange carrier in that country – a rate generally much lower than the international settlement rate. The ISP is unnecessary on these routes since foreign carriers, regardless of market share, cannot "whipsaw" U.S. carriers because a carrier can bypass onerous settlement rates through ISR and other alternative traffic methods.

The rapid development of other competitive services has also reduced the need for the ISP. Since the Commission last considered reform of the ISP in 1997, there has been explosive growth in non-traditional international telecommunications services such as Internet Protocol Telephony and Voice-Over-IP ("VOIP") that bypass the settlement

---

3 Cathy Hsu, FCC International Bureau Policy Division, *2001 Section 43.82 Circuit Status Data*, at Table 5 (Nov. 2002) *available at* www.fcc.gov/ib/pd/pf/csmanual.html.

4 TeleGeography, Inc., *TeleGeography 2003*, at 70 (Nov. 2002).

process altogether. A growing volume of traditional international long distance calls are being transported over the Internet, particularly in Asia. In 2001, 9.9 billion minutes of international traffic – nearly six percent of the world's international traffic – were carried over IP links. *Id.* at 71. Although it is difficult to measure its growth precisely, some estimate VOIP grew 68% in 2002 to 18 billion minutes of use and project that VOIP may reach 123 billion minutes of use in 2007.[5] The advent and continued growth of these new services make retention of the ISP even less necessary on ISR-approved routes. These competitive services will continue to place downward pressure on U.S.-international settlement rates and should alleviate any Commission concerns about the presence of "one-way bypass" and "whipsawing" on routes where the ISP is lifted.

On the other hand, retaining the ISP on ISR-approved routes could hinder competition. The Commission recognizes in the NPRM the many ways application of the ISP may harm the public interest. Because the ISP creates a unified bargaining position for all U.S. carriers, it denies U.S. carriers the freedom to respond quickly to changing market conditions. The requirement that foreign carriers must offer the same rate to all U.S. carriers creates significant "free rider" problems. Since those carriers who do negotiate individually with foreign carriers incur substantial bargaining costs and those rates are available to all carriers, it reduces the incentive to negotiate individually. Also, the proportionate return requirement may discourage new entrants by excluding from the market U.S. carriers that have no history of outbound traffic on a particular route. *NPRM*

[5] Probe Research, Inc., *Voice Over Packet Markets*, Vol. 3, No. 6, at Chart 1 (August 2002).

¶ 21. And by providing a method of price-signaling, the ISP may discourage U.S. carriers from taking an aggressive negotiating posture with foreign incumbents. *Id.*

Finally, the Commission's concern about the return of "whipsawing" of U.S. carriers if the ISP is eliminated on ISR-routes is not realistic given the level of competition in these markets as well as the presence of independent telecommunications regulators that can address any anti-competitive practices. The world market has changed considerably since the Commission last examined the ISP. In 1997, only 15 countries allowed international services competition. By 2001, this number had almost tripled, with 44 countries permitting such competition, including the European Union, Greece, the Czech Republic and, most recently, China.[6] Last year, these 44 competitive markets originated 87% of the world's international traffic. *Id.* As the Commission recognizes, more than 89% of the approximately 18.8 billion settled U.S. international minutes, representing at least 157 of the 203 countries with which U.S. carriers correspond, are being settled at or below the relevant benchmark rate. *NPRM* ¶ 12.

ISR is a proven, effective tool for lowering settlement rates worldwide. Eliminating ISP on ISR-approved routes will provide additional competitive pressure on settlement rates. In fact, the Commission should continue to examine ways to *expand* the use of ISR by permitting ISR on more routes. Adopting a policy that will allow ISR on more routes will further promote competition in the global marketplace and place even more downward pressure on settlement rates.

---

6 *TeleGeography 2003* at 64.

II. THE COMMISSION SHOULD ELIMINATE FILING REQUIREMENTS ON ANY ROUTE ON WHICH THE COMMISSION LIFTS THE ISP

The Commission should decline to apply the section 43.51 contract filing and section 64.1001 accounting rate filing requirements for any route on which the Commission no longer requires compliance with the ISP. Such filings serve no public interest purpose where ISP has been lifted. Quite the opposite, as the Commission has recognized, public disclosure of settlement rates and contract terms may facilitate price signaling and discourage competition. There is no basis for retaining the present filing requirements on those routes where the ISP is eliminated.[7]

III. REVISION OF THE BENCHMARK RATES IS UNNECESSARY

In light of the increased competition around the world and the continuing decline of international settlement rates, there is no need for the Commission to modify the benchmark rates yet again. This increase in competition has been accelerated not only by the liberalization of the telecommunications markets, but also by the explosion of technological advances that offer customers a variety of telecommunications options. These factors will continue to drive settlement rates down even further in the future.

The Commission Benchmarks Order in 1997 was met with enormous resistance by the international telecommunications community.[8] Given this contentious history, the Commission should act cautiously in this area. The current international settlement

---

7 As Verizon noted in its Comments in the Biennial Review, the Commission should also eliminate the other reporting requirements contained in sections 43.61, 43.82, and 63.10(c) of the Commission's rules, 47 C.F.R. §§ 43.61, 43.82, 63.10(c), because any benefits derived from the reports filed under these rules are far outweighed by the burden associated with producing them.

8 *See generally Cable & Wireless P.L.C. v. F.C.C.*, 166 F.3d 1224 (D.C. Circuit 1999).

benchmark rates should be kept as a safeguard to avoid the possibility that an operator might abuse its market power. However, rather than modify these rates again, the Commission should concentrate on those countries that have not complied with the Benchmarks Order or WTO obligations and continue to focus on the important regulator-to-regulator dialogue it has initiated over the last several years.

IV. RATE FLOORS RECENTLY ADOPTED IN SOME COUNTRIES SHOULD NOT INFLUENCE THE COMMISSION'S POLICY DECISIONS IN THIS PROCEEDING

On December 2, 2002, the Commission extended the pleading cycle in this proceeding in order to allow parties to comment on "recent actions taken by several foreign administrations to impose rate floors on international termination rates, including U.S.-international accounting rates."[9] Verizon is aware of only two countries that have done so: China and the Dominican Republic.

These recent actions should not affect the policies Verizon suggests here: removing the ISP on ISR-approved routes and maintaining the current benchmark settlement rates. For all the reasons outlined above, the ISP is unnecessary on ISR-approved routes where competition is already vibrant and the Commission need not revise the current benchmarks in this competitive climate. Recent actions by a few countries do not change the reality that less, not more, regulation is appropriate in the increasingly competitive global marketplace.

---

9 *Commission Extends Pleading Cycle in Rulemaking Proceeding on Possible Reform of the Commission's International Settlements Policy in View of Recent International Developments*, IB Docket Nos. 02-324, 96-261, DA 02-3314 (rel. Dec. 2, 2002).

Verizon recommends that if the Commission decides to react to these recent rate floors, it should concentrate its focus on the procedures the foreign government utilized in adjusting its rates. Regulatory actions should be non-discriminatory and consistent with the principles of transparency and procedural fairness that are recognized in modern international agreements like the WTO Agreement on Basic Telecommunications Services. For example, the recent action by the Dominican Republic's independent regulatory body, the Dominican Telecommunications Institute (or Indotel), complied with these principles. Consistent with its WTO and ITU obligations, Indotel published in advance the measures it had proposed to adopt and provided interested parties a reasonable opportunity to comment on the proposed measures before enacting the price increases. It is these factors – rather than nature of the regulatory act alone – that should drive any regulatory response by the Commission.

V. THE COMMISSION NEED NOT REGULATE FOREIGN MOBILE TERMINATION RATES

The NPRM also asks whether the Commission should consider regulating mobile termination rates for U.S.-international calls. As the Commission is aware, mobile charges have three components: call origination, transport, and termination on the mobile network. This last component – mobile termination – is the main component in the retail price of fixed-to-mobile calls. The Commission suggests that because many countries outside the United States operate under the "calling party pays" regime, some foreign carriers have introduced a bifurcated settlement structure with higher termination rates for calls to a mobile phone versus calls to a wireline phone. NPRM ¶ 46.

There is no need for the Commission to intervene in this area. First, in many countries mobile telecommunication markets are competitive. According to a recent study by the International Telecommunications Union ("ITU"), approximately 71% of countries have more than two mobile operators, 3% have two mobile operators, and 26% have only one.[10] The 74% of countries with two or more mobile operators account for a high percentage of mobile call terminations. *Id.* Competition in the mobile industry is increasing at a rapid pace and the potential for market abuse by a single carrier is unlikely.

More fundamentally, local telecommunications regulators in these countries, not the Commission, are the most appropriate bodies to address mobile termination rates. Since the Commission last examined the ISP in 1997, approximately 100 countries have established independent telecommunications regulators.[11] These local regulators have a strong incentive to investigate and address excessively high mobile charges because it is their constituents who are most affected by them. In most "calling party pays" countries, the large majority of calls that terminate on a mobile network originate within those countries and it is those consumers who absorb most of the increased call prices as a result of higher mobile termination rates.

Many local regulators have already taken action. Austria, Belgium, France, Norway, Sweden, and Portugal have already imposed reductions on mobile termination rates. In Greece, Ireland, and Germany, operators have voluntarily reduced mobile termination rates in response to regulatory pressure. The United Kingdom in particular

---

[10] *See International Telecommunications Union Country and Regulators Profile at* www.itu.int/ITU-D/treg/profiles/guide.asp.

[11] Chairperson's Report on the 2001 ITU Global Symposium for Regulators at 13 (December 3-5, 2001) *available at* www.itu.int/ITU-D/treg/Events/Seminar/GSR/WebDocuments/chairperson_report_final.pdf.

has devoted significant attention to these rates and its Competition Commission is expected to rule on this issue in early 2003. Other international telecommunications bodies have become involved as well. The European Commission has included mobile call termination rates in its draft recommendation on relevant product and service markets. And, the ITU is taking a closer look at the issue in one of the study groups of the Telecommunications Standardization Bureau.

Moreover, there is no evidence that international mobile operators are discriminating against U.S. consumers or U.S. carriers by charging higher rates for U.S.-originated calls. In the absence of any evidence of discrimination against either U.S. consumers or U.S. carriers, Verizon respectfully suggests that the Commission should allow local regulators in these countries to manage this process. There is no evidence that the Commission need intervene directly and indeed, such extraterritorial action could jeopardize this process in other countries.

The Commission's primary concern should be educating U.S. consumers who are unaware of possible surcharges on calls that terminate to mobile phones overseas. The Commission should increase its efforts to educate consumers about foreign mobile termination charges and warn of the possibility of surcharges on such calls. For example, the Commission could post on its website a list of mobile phone codes that will identify which calls may be subject to the surcharges. Similarly, the Commission should also increase consumer awareness of possible surcharges for premium or value added services as accessed by U.S. interexchange carriers.

CONCLUSION

The increasingly competitive conditions in the international telecommunications market compel the removal of the ISP (and its associated filing requirements) from ISR-approved routes and counsel against Commission action to modify the benchmark settlement rates or regulate foreign mobile termination rates.

Respectfully submitted,

Kathleen Grillo

Kathleen M. Grillo
1515 North Courthouse Road
Suite 500
Arlington, VA 22201
(703) 351-3071

Attorney for Verizon

January 14, 2003

Michael E. Glover
Edward Shakin
Of Counsel

THE VERIZON TELEPHONE COMPANIES

The Verizon 214 Licensees ("Verizon") are various subsidiaries and affiliates of Verizon Communications Inc. holding international Section 214 authorizations. These are:

Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance
CANTV USA, Inc.
Codetel International Communications Incorporated
GTE Pacifica Incorporated d/b/a Verizon Pacifica
GTE Railfone LLC
GTE Wireless Incorporated
Iusatel USA, Inc.
NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions
PRT Larga Distancia, Inc.
Verizon Airfone Inc. (formerly GTE Airfone Incorporated)
Verizon Global Solutions Inc.
Verizon Hawaii International Inc.
Verizon Select Services Inc.