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

REPLY COMMENTS OF VERIZON[1]

The comments in this proceeding reveal a broad consensus that the increasingly competitive conditions in the global telecommunications market justify reform of the International Settlements Policy ("ISP"). Commenters uniformly agree that competition has developed significantly since the last proceeding. WorldCom Comments at 2-4; Sprint Comments at 2; AT&T Comments at 1; Cable & Wireless Comments at 2-4. There is also general agreement that some deregulation of the ISP is necessary to continue to foster competition. *See, e.g.*, Cable & Wireless Comments at 5.

Commenters have divergent views on whether the Commission should regulate foreign mobile termination rates. As explained below, there is no basis for the Commission to intervene in this area and, indeed, such intervention might jeopardize recent efforts by independent foreign telecommunication regulators to address this issue.

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

I. REMOVING THE ISP ON ROUTES APPROVED FOR INTERNATIONAL SIMPLE RESALE IS THE MOST EFFECTIVE WAY TO ENCOURAGE COMPETITION WHILE PROTECTING AGAINST ABUSE OF FOREIGN MARKET POWER

Verizon and others maintained in their opening comments that there is no need to retain the ISP on routes where the Commission authorizes U.S. carriers to provide International Simple Resale ("ISR") because the ability for U.S. carriers to "bypass" the traditional settlement structure encourages foreign carriers to negotiate lower settlement rates. *See* Cable & Wireless Comments at 6-7 ("The ISP, as an effective matter, has ceased to exist on routes where the foreign country accepts the benchmark rate and is placed on the Commission's ISR-approved list"). Most commenters agree with this approach in whole or in part, although some urge the Commission to take a more cautious approach and lift the ISP only on routes where settlement rates are at or below the relevant benchmark rates. AT&T Comments at 11-16; WorldCom Comments at 5-7. In keeping with the majority of these comments, the Commission should eliminate the ISP on all international routes that are currently ISR-authorized and seek additional ways to promote the development of ISR on more routes.

The Commission should, in conjunction with removing the ISP, reserve the right to use its enforcement power to address, on a case-by-case basis, situations in which a foreign carrier with market power engages in anticompetitive practices. With this safeguard in place, the Commission should feel confident that foreign carriers will not engage in "whipsawing" or other objectionable conduct if the requirements of the ISP are removed from ISR-authorized routes.

As Verizon stated in its initial comments, it is important that the Commission address any alleged anti-competitive practices on a case-by-case basis. Because of differences in cost structures and regulatory regimes across countries, the Commission should resist enacting rules that apply widely across many countries. For example, AT&T and other commenters point to recent "rate floors" set by China and the Dominican Republic as proof that the Commission must be cautious in removing the ISP. But it is inaccurate and misleading to lump these recent actions together. As the Dominican Telecommunications Institute ("INDOTEL") explained recently in comments to the United States Trade Representative, its recent decision to raise the termination rate for inbound traffic to $0.08 was "non-discriminatory, transparent, competitively neutral and cost-oriented."[2] INDOTEL's decision was the result of concerns for the stability of its foreign currency account and, as a result, was fully consistent with its obligations under the WTO Agreement on Basic Telecommunications Services and General Agreement on Trade in Services ("GATT"). Neither the Benchmarks Order nor the ITU, ITR, or WTO agreements preclude national regulatory authorities from raising termination rates if those actions are justified. So long as those actions are cost-oriented, do not discriminate against carriers, and are enacted after public notice and consultation, they should not be viewed as an automatic cause for the Commission's concern. Verizon urges the Commission to review these circumstances individually and to resist the temptation to tar all of these regulatory authorities with the same brush.

II. THE CURRENT BENCHMARK RATES SHOULD BE MAINTAINED

Although virtually all commenters agree that competitive conditions have developed throughout the world and that settlement rates have steadily decreased in recent

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[2] Comments of INDOTEL on United States Trade Representative 2003 Review of Compliance with Telecom Trade Agreements, at 3 (Jan. 24, 2003) *available at* www.ustr.gov/sectors/industry/Telecom1377/2003/indotel.pdf.

years, a few nonetheless urge the Commission to begin the arduous task of reevaluating the benchmark rates once again, for all countries. AT&T Comments at 26-28, Sprint Comments at 7-11.

The Commission should reject this minority view. The Commission Benchmarks Order in 1997 generated enormous resistance in the international telecommunications community, has fostered a suspicion of U.S. regulatory policy and elicited actions by overseas policymakers to expand regulations to areas where the U.S. has a strong presence, such as the Internet backbone market. Verizon Comments at 6-7. Verizon believes that if the Commission again adjusts the benchmarks, foreign regulatory authorities may respond by enacting unilateral extraterritorial regulations of their own, including, for example, extending the traditional settlement structure to the Internet through regulating International Charging Arrangements For Internet Services.

There is no need to jump into this minefield yet again. The current benchmark rates are adequate to protect against abuses of market power by foreign carriers. The environment has changed dramatically since the Benchmarks Order with the advent of national regulatory authorities. It is this increased oversight at the domestic level that will prevent backsliding by foreign carriers if the ISP is removed on certain routes. Rather than provoke yet another counterproductive dispute with foreign regulators and governments, Verizon instead urges the Commission to focus on its successful dialogues with foreign telecommunications regulators in order to increase the downward pressure on settlement rates in the countries where those rates remain significantly above cost.

III. THE COMMISSION SHOULD NOT REGULATE FOREIGN MOBILE TERMINATION RATES

There is far less agreement on the final question posed by the NPRM: whether the Commission should regulate foreign mobile termination rates. Several commenters agree with Verizon that independent foreign regulators are actively addressing this issue and, as such, it is premature for the Commission to intervene in this area and potentially distort this process. Cable & Wireless Comments at 13-19; ANIEL Comments at 8; Telecom Italia Comments at 9; Vodafone Comments at 9-11, 14-15, and 18-23, Annex B (attaching an overview of past and current activity by foreign regulators in particular markets). Cable & Wireless also makes the strong point that the recent proceedings in many countries, and particularly in the United Kingdom and Australia, "can be expected to set a precedent in other jurisdictions, particularly in Europe and the Asia-Pacific region." Some also note that it is far too early for the Commission to take prescriptive action. Cable & Wireless Comments at 16, 17. Even carriers who argue in favor of Commission intervention in this area urge the Commission to attempt to work with foreign governments and regulators before acting. PCCW Limited Comments at 7-8 ("Because these government actions hold promise for reforming mobile termination rates in many countries, and because unilateral enforcement of the benchmarks policy could be perceived as interfering with such efforts, PCCW recommends that the Commission strive to work closely with the regulators and other officials in foreign countries to reform this sector before resorting to benchmark enforcement actions").

The calls for immediate Commission intervention hail from some large interexchange carriers who assert that "excessively" high termination rate charges are above cost and are being passed through to U.S. consumers unnecessarily. AT&T

Comments at 30-35; WorldCom Comments at 16-25; Sprint Comments at 16-21; CompTel Comments at 4-7.

These arguments are fundamentally flawed, for several reasons. First, these carriers ignore the critical differences between cost structures in mobile and fixed wireline networks. Verizon directs the Commission's attention to the comments by Vodafone that set out in some detail the cost structures of mobile networks. Vodafone Comments at 7-8. Mobile networks incur costs, such as spectrum fees and the costs of providing mobility and handover, that fixed networks do not face. Traffic levels on mobile networks in developing markets are lower than traffic than on fixed wireline networks, another factor that affects relative cost structures. Thus, it is simply wrong to assume that mobile termination rates are "excessive" merely because they may exceed fixed interconnection rates. *Id.* at 7.

These arguments also gloss over the fact that mobile termination rates are set under the "calling party pays" retail rate structure, conditions that are very different from the receiving party pays retail rate structure in the United States. Again, as Vodafone demonstrates convincingly in its comments, pricing structures under "calling party pays" and "receiving party pays" are necessarily different. Vodafone estimates that termination costs under "receiving party pays" price structures are one-third to one-fifth of those under "calling party pays." Thus, "[t]o extract one component of the overall [receiving party pays] price structure – the 'termination' element – and apply it to a quite different context is wholly misleading." Vodafone Comments at 12.

These carriers also advance the suggestion that the Commission import the benchmark settlement rates to the wireless context and rule that the Benchmarks Order also applies to foreign mobile termination rates. The Commission must dismiss any such argument. The current benchmarks were developed specifically for the fixed wireline environment, after detailed costs analyses of fixed wireline networks. They did not take into account the different cost structure of mobile networks (including conditions related to the different structures of individual overseas markets) or the impact of such rates in a "calling party pays" regulatory regime. Moreover, reflexive application of the Benchmarks Order to foreign mobile termination rates would ignore the underlying commercial structure of the fixed to mobile markets. Generally, the foreign carrier that interconnects with the U.S. carrier sending U.S. traffic overseas is not affiliated with the foreign mobile operator that terminates the call. A foreign carrier, forced to charge the benchmark rate for this traffic, could choose to reject the traffic entirely if it cannot convince the mobile operators to agree to the lower rate or exert market power over the mobile carrier by paying less than the rate allowed under the domestic regulatory structure. Applying the benchmarks to this entirely different physical and regulatory context could have severe, unintended consequences.

For all these reasons, the Commission should not regulate foreign mobile termination rates but should allow the recent efforts by independent telecommunications regulators to develop and bear fruit. A large number of these regulators have taken up this issue, as Annex B to the comments by Vodafone reveals. It is these local regulators, not the Commission, who are in the best position to decide whether to regulate such rates. Indeed, any action by the Commission in this area could be seen by these regulators as an attempt to interfere with this developing initiative. 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.

CONCLUSION

For these reasons as well as the reasons discussed in Verizon's opening comments, the Commission should lift the ISP (and its associated filing requirements) from ISR-approved routes and should leave undisturbed the current benchmark settlement rates. The Commission should not regulate foreign mobile termination rates but should allow independent foreign regulators to continue their work in addressing this issue.

Respectfully submitted,

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Attachment A

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.