BELLSOUTH

Francis S. Urbany
Vice President-International

Suite 900
1133-21st Street, N.W.
Washington, D.C. 20036-3351
202 463-4110
Fax: 202 463-4142

February 25, 2003

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

Re: *In the Matter of International Settlements Policy Reform and International Settlement Rates*, I.B. Docket Nos. 02-324, 96-261

Ex Parte Communication

Dear Ms.Dortch:

BellSouth Corporation ("BellSouth") has been monitoring the comments filed in the above-captioned proceeding as they relate to the issue of foreign mobile termination rates.[1] BellSouth International, Inc., a subsidiary of BellSouth, operates mobile radio systems in eleven Latin American countries, including Argentina, Brazil, Chile, Colombia, Ecuador, Guatemala, Nicaragua, Panama, Peru, Uruguay, and Venezuela. These BellSouth-operated mobile systems ("the BellSouth Systems") provide mobile terminations in these countries and, thus, could be impacted adversely by this proceeding.

BellSouth has also filed a submission pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (which requires that the United States Trade Representative ("USTR") annually review the operation and effectiveness of U.S. telecommunications trade agreements) regarding the issue of mobile termination rates in Latin America. BellSouth believes the Commission may benefit from information submitted by BellSouth to the USTR on February 25, 2003, a copy of which is attached hereto. In addition to presenting this information to the Commission, BellSouth would like to make the following points with regard to the instant proceeding.

BellSouth agrees with Cable & Wireless, Verizon, Vodafone, and others who demonstrate that the Commission should not address the issue of foreign mobile termination rates at this time.[2]

---

[1] *In the Matter of International Settlements Policy Reforms and International Settlement Rates*, IB Doc. Nos. 02-324, 96-261, FCC 02-285 (rel. Oct. 11, 2002))("*Notice*").

[2] Comments of Cable & Wireless USA, Inc., IB Doc. No. 02-324 (filed Jan. 14, 2003), pp. 15-19 ("C&W Comments"); Comments of Verizon, IB Doc. No. 02-324 (filed Jan. 14, 2003), pp. 8-10 ("Verizon Comments"); Comments of Vodafone, IB Doc. No. 02-324 (filed Jan. 14, 2003), pp. 9-11, App. B ("Vodafone Comments"); Comments of PCCW Limited, IB Doc. No. 02-324 (filed Jan. 14, 2003), pp. 6-8 ("PCCW Comments"); Reply Comments of

First, in the eleven countries mentioned above, the BellSouth Systems generally have adopted calling party pay ("CPP") systems and they face competition from other mobile carriers. In fact, all eleven countries have at least two mobile competitors, and eight have at least three competitors. Chile, Guatemala, and Peru each have four mobile competitors. Argentina and the São Paulo metropolitan area of Brazil have 5 mobile competitors (and the Northeast States of Brazil have four competitors).

These countries are not unusual. As Verizon points out, worldwide about 71% of all countries have more than two mobile operators.[3] Thus, the Commission can and should permit competition in the local mobile services market, rather than regulatory intervention, determine the appropriate level of the calling party pays rates.

Second, ten of the BellSouth Systems (and their mobile competitors) operate under CPP systems that were required either as part of the concession process or through regulations governing the mobile carriers. In other words, the CPP systems are fundamental, regulatory policies of these countries, and the Commission should not attempt to unilaterally change these systems or the rates under these systems.

In BellSouth's Latin American CPP markets, the BellSouth Systems charge similar rates for terminating domestic and foreign-originated (including US-originated) calls. BellSouth believes this is true for its competitors. In Colombia, Ecuador, Nicaragua, Panama, Peru, Venezuela, and Uruguay, the BellSouth Systems charge less for terminating foreign calls than their domestic CPP rates, and in Brazil and Chile the charges are the same. In these cases, the carriers are not discriminating against US consumers.

Third, under the circumstances outlined above, BellSouth believes there is no need for any regulatory intervention in the area of mobile termination rates at this time. If, however, such intervention were appropriate, there can be no question that the national regulatory authorities of other countries would be far more suitable venues than this Commission to address alleged market failures in their own countries. Cable & Wireless sides with AT&T, WorldCom and others in arguing that mobile termination rates are excessive in many jurisdictions.[4] Even if this contention were true (and BellSouth believes that it is not), Cable & Wireless ("C&W") acknowledges that this Commission need not take any action at this time, noting that there are already regulatory proceedings in several countries considering the level of mobile termination rates.[5]

Telecom Italia, IB Doc. No. 02-324 (filed Jan 14, 2003), pp. 7-10 ("Telecom Italia Comments").

[3] Verizon Comments at 9.

[4] C&W Comments at 13-14.

[5] *Id.* at 15-19 (citing intervention in Australia, Jamaica, Panama, and the United Kingdom.)

Specifically, as C&W points out, national regulators in Australia and the United Kingdom recently considered the appropriateness of mobile termination rates in their countries in light of their national telecommunications policies and took direct regulatory actions regarding the rates for their mobile termination services.[6] Similarly, Vodafone provides an "Overview" of actions taken by regulatory authorities in fifteen other nations regarding mobile termination rates.[7]

Even PCCW Limited, which claims "mobile termination rates at levels far in excess of underlying costs is a serious global problem…,"[8] recommends that the Commission act cautiously because "(i) unilateral enforcement actions may not be appropriate and could have unintended side-effects; and (ii) because foreign governments and regulators should be given the opportunity to reform this sector."[9] The European Telecommunications Network Operators' Association ("ETNO") correctly notes that unilateral action by this Commission could adversely impact the high mobile penetration rates in Europe and could raise entry barriers.[10] Likewise, the Asociacion Nacional de Industrias Electronicas y de Telcomunicaciones ("ANIEL") raises a significant concern that unilateral actions might "put a brake on the investment made by mobile and fixed operators in Europe, with subsequent impact on manufacturers (including American manufacturers) and commercialization policies."[11]

Not only are the foreign regulatory authorities more familiar with local market conditions and with the carriers in their countries than this Commission could ever be, they also are the bodies empowered to create and implement their national telecommunications policies. As in the United States, these policies are not limited to promoting competition for interconnection among carriers, but they may involve legislated obligations to promote foreign investment, the delivery of universal service, the creation of wireless-to-landline competition, and more fundamentally, the deployment of modern telecommunications infrastructure. Any action taken with respect to mobile termination rates should take these other factors into consideration.

---

[6] C&W Comments at 15-16 (Australia and UK take actions regarding mobile termination rates.) Vodafone Comments at Annex B.

[7] Vodafone Comments, "Overview of Regulatory Interventions in Mobile Termination Rates (To November 2002)", Appendix B.

[8] PCCW Limited Comments at 2. BellSouth has financial interests in mobile carriers in Denmark and Israel as well as the Latin America countries listed above.

[9] *Id.* at 6.

[10] ETNO Expert Contribution on the FCC Notice of Proposed Rulemaking (NPRM) on ISP, ISP, Benchmark Policies and Mobile Termination Charges, IB Doc. No. 02-324 (filed Jan. 14, 2003), p. 2 ("ETNO Comments").

[11] ANIEL's Comments on the Consultation of the Federal Communications Commission Concerning the Proposal (N.P.R.M. –Notice of Proposed Rulemaking-, IB Docket Nos. 02-324 and 96-261) (filed Jan. 14, 2003), p. 4 ("ANIEL's Comments").

Fourth, given the wide variety of foreign regulatory schemes regarding mobile carriers and mobile markets, the Commission would have to obtain extensive and highly detailed information about the local conditions in these foreign markets in order to engage in rational decision-making. The record in this proceeding is simply inadequate for this task.

For example, in the *Notice* at page 27, ¶ 46, the Commission states "U.S. providers generally recoup mobile termination costs from U.S. consumers through rate surcharges." The Commission further states that examples of such surcharges are US$0.32 for Panama and US$0.33 for Uruguay. *Id.* BellSouth is a mobile operator in both of these countries. The information cited by the Commission is not accurate.

The actual rates received by BellSouth Systems in Panama and Uruguay for terminating international traffic on their mobile systems are only US$0.095 and US$0.00, respectively. The other BellSouth Systems generally receive similarly low mobile termination rates on incoming international calls. For example, BellSouth Nicaragua receives a mobile termination rate of only US$0.02 per minute under existing domestic regulations. This is considerably lower than the surcharge of US$0.18 cents per minute posted by WorldCom on its web site.[12]

In Uruguay and Nicaragua, international carriers do not connect directly with the BellSouth Systems; rather, they connect to the BellSouth Systems through the fixed local operators. In these cases, the fixed operators pay the BellSouth System less than the CPP rate.

There are other examples of how easily mobile termination rates are misunderstood by operators. In a dispute with AT&T over mobile termination rate levels in Argentina and Peru, BellSouth has filed a letter with the United States Trade Representative pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. Section 3107.[13] In that dispute, AT&T claims that Argentina has an above-cost mobile termination rate for international calls because: (1) the rate is allegedly much higher than CPP local rates, and (2) it is allegedly above a cost termination measure estimated by OFTEL in the United Kingdom for the specific case of mobile termination in that country, not for Argentina or Peru.

In a letter filed today with the USTR, BellSouth demonstrates that the actual difference between the international mobile termination rates and the CPP local rates is much lower than AT&T claims. It further demonstrates that, in any case, that difference is fully explained by a set of regulatory and economic factors specific to Argentina and distinct from the United Kingdom. BellSouth also shows that the trend in the near future in Argentina is to have a uniform mobile termination rate regardless of the type of call.[14]

---

[12] See http://www.mci.com/international/english/resources/icp_mobile_surcharge.jsp.

[13] See Attachment A hereto.

[14] *Id.* at 4.

Operators such as Telefónica and Vodafone have also pointed out critical differences between the United States' receiving party pay ("RPP") model and the CPP model adopted by most other countries. And, they have shown how those differences affect the analysis of the propriety of foreign mobile termination rates, so BellSouth will not repeat those points here. Suffice it to note that the mere fact that US termination rates in the United States or some other country may be lower than the foreign mobile termination rates in Latin America and Europe under the CPP model does not prove that the foreign rates are unjustified, that they do not serve some desirable public policy in those countries, or that they are the result of market power by the foreign mobile carriers. This is especially true where the mobile termination rates are reviewed and set by foreign regulatory bodies and where those bodies have taken into account the public interest needs of their countries.

Moreover, as noted above, the record in this proceeding demonstrates that retail markets for mobile telephone services (access, outgoing calls and incoming calls) in most foreign markets are highly competitive. When retail markets for mobile services are sufficiently competitive, regulation on mobile call termination rates is unwarranted and would likely lead to reduced consumer welfare in the short and the long run.

For the reasons stated above, BellSouth believes that there is no need for the Commission to take any action at this time regarding foreign mobile termination rates. If the Commission should, nevertheless, decide to take some action with respect to those rates, it must develop a more complete record of data than provided by the commenters in the proceeding before drawing any substantial conclusions. Specifically, the Commission must avoid using flawed information such as that cited in its *Notice* regarding the mobile termination rates received by foreign mobile operators in Panama and Uruguay.

Respectfully yours,

Francis S. Urbany

Francis S. Urbany

Attachment

Attachment A

USTR Letter

BELLSOUTH

Francis S. Urbany
Vice President-International

Suite 900
1133-21st Street, N.W.
Washington, D.C. 20036-3351
202 463-4110
Fax: 202 463-4142

February 25, 2003

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
600 17th St. NW
Washington, DC 20508

Re: Section 1377 Review: Comments on Review of Compliance with Telecom Trade Agreements for 2002 and 2003

Dear Ms. Blue:

On behalf of BellSouth Corporation ("BellSouth") we are pleased to respond to the request of the United States Trade Representative ("USTR") for comments pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. Section 3107, concerning compliance with telecommunications trade agreements. We respectfully submit these comments in response to comments filed by AT&T on January 10, 2003 on the issue of foreign mobile termination rates in Argentina and Peru.

BellSouth International, Inc., a subsidiary of BellSouth, operates mobile radio systems in eleven Latin American countries, including Argentina and Peru. The BellSouth-operated mobile systems ("the BellSouth Systems") provide mobile terminations in these countries. To the extent that AT&T is questioning mobile termination rates in Argentina and Peru, where BellSouth operates, BellSouth has a strong interest in setting the record straight with regard to AT&T's claims.

I. Argentina

A. AT&T Claim

AT&T alleges that Argentina's mobile termination surcharges contravene Argentina's WTO Reference Paper commitments under the GATS Reference Paper on the grounds that: 1) the rates for inbound international calls are not cost-oriented; and, 2) the rates on international calls are discriminatory because they exceed the rates on domestic calls.

AT&T claims that Argentina has an above-cost mobile termination rate for international calls because: (1) the rate is allegedly much higher than Calling Party Pays ("CPP") local rates, and (2) it is allegedly above a cost termination measure estimated by OFTEL in the United Kingdom for the specific case of mobile termination in that country, not for Argentina.

AT&T states that in Argentina the higher mobile termination rate imposed on international calls as of January 1, 2003 of US$0.18 per minute exceeds the current mobile termination rate for domestic calls of US$0.09 per minute peak/ US$0.07 per minute off-peak and that this difference is discriminatory.

B. BellSouth Response

Once appropriate adjustments are made, there is virtually no price difference between international mobile termination and CPP local rates. In addition, Argentinean authorities are moving to reduce price differences. Furthermore, mobile termination rates are reasonable and cost-oriented, as can be concluded once market forces and the macroeconomic situation are understood.

C. Detailed Analysis

1.1 Once all appropriate economic adjustments are made, there is virtually no difference in domestic and international rates and there is therefore no discrimination.

In order to make a proper "apples to apples comparison," the following adjustments in the domestic and international rates are necessary:

AT&T's analysis of domestic mobile termination rates fails to include the charges that domestic landline operators levy in addition to the mobile termination charge received by the mobile operator. AT&T mistakenly states that the current mobile termination rate for domestic calls is US$0.09 per minute, peak, and US$0.07 per minute, off-peak. In reality, the effective CPP rate for local calls is US$ 0.157 per minute peak and US$ 0.105 per minute off-peak, which form a weighted average of US$ 0.146 per minute (refer to annex A). From these, there are payments that are retained by the landline operators for fixed to mobile calls such as billing and collection, landline local tariff, bad debts, etc. In Argentina the payments are retained by landline operators based on CPP agreements between landline and mobile operators and represent a total of around 20 percent of the CPP local tariff. This means that mobile operators actually get 80 percent of the CPP tariff, i.e. US$ 0.117 per minute (= 0.8*US$0.146 per minute).

AT&T's analysis of international mobile termination rates incorrectly includes the charges that domestic landline operators levy in addition to the mobile termination charge received by the mobile operator. AT&T left out an important fact regarding the US$0.180 per minute for international incoming calls. From this rate, mobile operators receive only US$ 0.140 per minute. The remaining US$ 0.04 per minute is passed on to the local incumbents (Telecom and Telefonica) as a fee or commission for the use of their fixed network in the transportation and termination of international traffic into mobile networks.

AT&T's analysis fails to account for rounding differences in the way that domestic and international call charges are calculated. AT&T makes an erroneous comparison of local call tariff and international mobile termination rates.

The US$ 0.18 per minute for rate for the termination of international calls in mobile networks that AT&T is referring to is a rate rounded to the second, i.e., is billed by the second and not by the minute.[1] A correct comparison of this rate with the CPP local rate would have been to compare it with the effective local call tariff we noted before: US$ 0.157 per minute peak, and US$ 0.105 per minute off-peak, which form a weighted average of US$ 0.146 per minute.

The difference between international and domestic mobile termination rates is only US$0.023 per minute, not the much higher figure AT&T claims is the case. When AT&T states that the higher mobile termination rate imposed on international calls (US$ 0.18 per minute) exceeds the current mobile termination rate for domestic calls (US$0.09 per minute peak/ US$0.07 per minute off-peak) and that this difference is discriminatory, AT&T does not consider the real mobile termination rates for fixed to mobile calls, rounding effects and the local incumbents' fee or commission to transport international traffic. Taking these factors into account, the US$ 0.140 per minute that mobile operators are actually receiving for terminating international calls routed through the local incumbent's networks would have to be compared to the US$ 0.117 that the same mobile network gets from fixed to mobile calls. In this case, the difference between the two rates is US$ 0.023 per minute.

1.2 Additional factors should be considered in the analysis of mobile call termination rates in Argentina.

The financial opportunity cost is higher on international calls to an Argentina mobile number than a domestic call to the same number due to a longer billing cycle. The difference of US $0.023 is actually smaller when considering that incoming international and domestic calls to the mobile network have different billing periods. Local calls to the mobile network are paid on a 30-day cycle while international calls to the mobile network are paid in a 120-day cycle and sometimes on a 180-day cycle. Thus, there is a financial opportunity cost on this billing difference, making the termination of incoming international calls more expensive for mobile operators than local calls.

Argentina is suffering a severe macroeconomic crisis. Among other negative effects, government price controls have distorted mobile termination rates. Additionally, the difference between the local CPP tariff and the mobile termination rate for international call of US$ 0.023 per minute can be easily explained by the transitory macroeconomic crisis that Argentina has been suffering since the beginning of 2002 and by the way the regulatory authorities of the Argentina Government have structured the CPP adjustment rule.

Since January 2002 Argentina has been experiencing one of its worst macro economic crises ever[2] and as a result of the crisis, telecommunication prices have not been fully adjusted

[1] The Secretary of Communications issued resolution 124/2002 that mandates a mobile termination for incoming international calls on August 16,2002.

[2] Exchange rate devaluated more than 200 per cent, domestic output has contracted more than 15 percent on an annual basis, and the there is a financial fragility that threatens the stability of the whole country. In order to overcome the crisis, the Argentina Government has established strict financial measures, fiscal discipline, and price controls, which comprises public utilities prices (including telecommunication services), as well other services and goods. Price controls are aimed basically to avoid getting into a vicious cycle of devaluation-inflation so pervasive

for abrupt increases in the exchange rate and inflation because of price controls, which includes the Calling Party Pays rates for fixed to mobile calls. In a stable environment, operators would be able to expect a CPP rate increase of at least the same magnitude as the outbound mobile prices (Outbound mobile prices in pesos have increased just over 40 percent during January 2002 and January 2003 in spite of a devaluation of between 200 and 250 percent). However, the first CPP increase adjustment allowed by the Government took place over one year after the crisis began, on 26 January 2003, an increase of just 8.5 percent.[3] It is expected that in the near future further increases will take place and these will ultimately level out domestic and international mobile termination rates.

Argentina's authorities are moving to reduce price differences. It is also important to note that the main purpose of Resolution 124/2002, issued by Argentina's Secretary of Communications in August 2002 and mentioned by AT&T in its USTR filing, was to abolish price discrimination for mobile termination rates and not to create it as AT&T states in its filing. Prior to the Resolution, there were different mobile termination rates for different types of calls. In fact, the mobile termination rates for inbound international and payphone traffic were lower than the local mobile termination rates and this difference caused several arbitrage opportunities (e.g., tromboning, by-pass, etc.) that distorted an efficient interconnection system. Thus, the current increase in the mobile termination rates for inbound international traffic is to avoid the occurrence of bypass in the Argentinean market and this is in accordance with the WTO principles committed to by Argentina.

Conclusion: the difference between international and domestic mobile termination rates are virtually non existent and thus not discriminatory once relevant adjustments are made.

3. Mobile termination rates in Argentina are cost-oriented and reasonable.

Argentina's mobile market is highly competitive (five mobile operators). In Argentina, BellSouth faces competition from four other mobile operators, and Argentina's mobile markets are highly competitive.[4] Therefore, the presumption should be that market forces are working in Argentina to see that prices are cost-oriented.

---

during economic crisis in Argentina in the past. Multilateral international organizations such the International Monetary Fund and the World Bank prioritize macroeconomic results of low inflation and balance of payment equilibrium even if it is necessary to implement temporary price controls. The counterpart of price controls it is that the structure of relative prices of the telecommunication sector, including the CPP tariff for local calls, is not sustainable in the long run since telecommunication prices need to increase in real terms in order to take into account the increases in the underlying cost drivers. The telecommunication industry is highly intensive in capital most of which is imported, and there are strong economies of scale that have to be considered when pricing telecom services.

[3] Resolution 630/2002 introduced the CPP rate adjustment mechanism: the retail-minus approach to determine the CPP rate in pesos. According to this approach the CPP rate is set up equal to a weighted average of outbound mobile prices. Even when outbound mobile prices are not officially regulated, the Government has imposed an informal price regulation by which prices are not allowed to increase at the same pace as devaluation and other underlying cost drivers.

[4] Please see attached BellSouth FCC filing regarding mobile termination rates in Latin America for a further discussion of the competitive nature of the market.

AT&T does not present any information specific to costs in Argentina. AT&T supports its argument that Argentina's rates are not cost-oriented by relying on a LRIC study from the United Kingdom. However, AT&T does not present any cost information specific to the reality of the Argentinean mobile telecommunication industry and merely mentions one cost estimate done by a regulator in a foreign developed country to justify its assertion that mobile termination rates in Argentina are above costs.

Cost studies conducted in developed countries must be adjusted for many relevant differences between countries before they can be used as a proxy benchmark for costs in Argentina. In relying on the UK study, AT&T did not make the necessary adjustments to the benchmark for differences between Argentina and the United Kingdom or any other country's benchmark. International benchmarks obtained from developed countries are difficult to use for evaluating and setting rates in developing countries, given the differences in fundamental aspects of demand and supply across countries. Some of the significant differences for which suitable adjustments are necessary are set forth in Annex B.

Argentina's macroeconomic crisis has increased costs for mobile operators. Once proper adjustments were made for comparative purposes between Argentina mobile termination costs and mobile termination costs in other jurisdictions, it is likely that the current mobile termination for incoming international calls are, in fact, under cost or just above cost, and not considerably above costs as AT&T argues in its filing. As previously stated, the sudden currency devaluation in the beginning of 2002 coupled with rising inflation during 2002 contributed to a substantial boost of the cellular operators' costs of doing business in a country such as Argentina. This is because dollar-denominated costs such as the purchase of equipment, handsets and software increased and other domestic costs also increased as inflation spiraled upward. This situation was worsened further when CPP prices were frozen for the duration of 2002 so that full cost recovery has been postponed. The recent CPP price increase allowed by Resolution 623/2002 is just a first step towards having CPP prices at levels that are reasonable and that are actually sufficient to cover the mobile operators' termination costs.

Conclusion: AT&T has failed to show that Argentina's mobile termination charges are not cost-oriented. Argentina's mobile markets are highly competitive, and the presumption should be made that this process is functioning. To the extent that there is regulation, the national regulator has made the decision to tie terminating rates to highly competitive originating rates. The severe macroeconomic shocks in Argentina and the resulting price controls imposed by the Argentinean authorities have prevented these regulations of mobile termination rated from taking place fully and prevented adjustments in mobile termination rates to levels that would otherwise be permitted by this methodology.

II. Peru

A. AT&T's Claim

AT&T claims that mobile termination rates in Peru are significantly above cost and are not reasonable, thus violating the Reference Paper commitment for cost-oriented rates. AT&T also suggests that the "burden will disproportionately harm U.S. operators and consumers."

B. BellSouth's Response

Peru's market is competitive and rates in Peru are reasonable and cost-oriented.

C. Detailed Analysis

1. Mobile termination rates in Peru are reasonable and cost-oriented.

Peru's mobile market is highly competitive (four mobile operators). In Peru, BellSouth faces competition from three mobile operators, and Peru's mobile markets are highly competitive. Therefore, the presumption should be that market forces are working in Peru to see that prices are cost-oriented. In Peru, to the extent that regulators have intervened to regulate mobile termination rates for incoming international long distance calls, the regulator has discriminated in favor of domestic and international long distance calls so that, contrary to AT&T's claim of harm to U.S. consumers, they are actually being favored.

AT&T does not present any information specific to costs in Peru. AT&T supports its argument relying in a LRIC study from the United Kingdom. However, AT&T does not present any cost information specific to the reality of the Peruvian mobile telecommunication industries and it mentions just one cost estimate done by a regulator in a foreign developed country to justify its assertion that mobile termination rates in Peru are above costs.

Cost studies conducted in developed countries must be adjusted for many relevant differences between countries before they could be used as a proxy benchmark for costs in a country such as Peru. AT&T has not even attempted to adjust the benchmark for differences between Peru and the United Kingdom or any other country's benchmark. International benchmarks obtained from developed countries are difficult to use for evaluating and setting rates in developing countries, given the differences in fundamental aspects of demand and supply across countries. Some of the significant differences for which suitable adjustments are necessary before making any cross-country comparison are set forth in Annex B. We would note that BellSouth has questioned the methodology used to establish the OSIPTEL estimates in past submissions and continues to be in disagreement with the OSIPTEL estimates.

Conclusion: Peru's mobile termination charges are reasonable and cost-oriented.

2. Mobile termination rates in Peru favor U.S. consumers

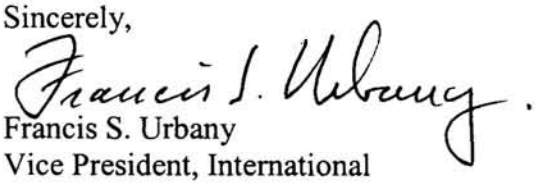
Mobile termination rates in Peru are non-regulated, with the exception of termination rates from international and domestic long distance calls, and pay phone calls. The regulatory body in Peru, OSIPTEL, set up mobile termination rates for long distance calls in 2000, and mobile termination rates for long distance were set at a lower level than CPP local calls. So, contrary to AT&T's assertion, U.S. consumers are not harmed.

Conclusion: Mobile termination rates in Peru do not harm U.S. consumers.

* * *

For the above reasons, BellSouth requests that USTR disregard the claims of AT&T with respect to Argentina and Peru for this year's Section 1377 review. AT&T's claims regarding harmful acts, policies and practices do not hold up under careful analysis. Mobile termination rates in Argentina and Peru are reasonable, cost-oriented and non-discriminatory.

Sincerely,



Francis S. Urbany
Vice President, International

Attachment

Annex A

Calling Party Pay rates in Argentina

Table 1 shows the tariff for landline to mobile calls currently in place in Argentina as of February 2003. The Calling Party Pays (CPP) tariff that a landline user pays is comprised of a mobile tariff and a fixed local tariff. The listed rate (without retail tax) for a landline to mobile call is 0.366pesos/minute or fraction of minute during peak time and 0.245 pesos/minute or fraction of a minute for off-peak time. Assuming a traffic distribution of 80% peak traffic and 20% off-peak traffic, the weighted average rate would be 0.342 pesos/minute or fraction of minute. However the effective rate per minute actually paid by the landline subscriber depends on the nature of the rounding of the call, which in this case it is by the minute, and the average call length. Assuming that call duration follows a negative exponential distribution, we can estimate the effective per minute price for a number of calls of irregular duration, and for this we need to know just the average call length. Average call length for landline-to-mobile calls is reported to be lower than landline-to-landline call length, and in the case of Argentina this is estimated to be around 90 seconds per call or 1.5 minutes. The rounding effect is pretty substantial: almost 40 per cent. Thus, the effective peak rate increases to 0.502 pesos/minute, and the off-peak rate increases to 0.335 pesos/minute.

Using the exchange rate of the first week of February (1 US$ = 3.2 Pesos), the effective CPP rates for local calls are: US$ 0.157 per minute peak, and US$ 0.105 per minute off-peak, and not the rates used by AT&T in its filing: US$ 0.09 and US$ 0.07. It is clear that AT&T has underreported severely the actual rates for CPP calls in Argentina.

TABLE 1. ARGENTINA' S CPP TARIFF FOR LOCAL CALLS: FEBRUARY 2003

I. WITHOUT ROUNDING EFFECTS			
(In pesos/minute, w/o taxes)	Peak	Off-peak	Average
a. Mobile tariff	0.335	0.220	0.312
b. Fixed Local Tariff	0.031	0.025	0.030
Total	0.366	0.245	0.342
II. WITH ROUNDING EFFECTS			
(In pesos/minute, w/o taxes)	Peak	Off-peak	Average
a. Mobile tariff	0.459	0.301	0.427
b. Fixed Local Tariff	0.043	0.034	0.041
Total	0.502	0.335	0.469
(In US$/minute, w/o taxes)	Peak	Off-peak	Average
a. Mobile tariff	0.143	0.094	0.134
b. Fixed Local Tariff	0.013	0.011	0.013
Total	**0.157**	**0.105**	**0.146**

Assumptions:
Exchange rate: 1 US$ = 3.20 Pesos, February 2003
Traffic Distribution: 80% Peak/20% Off-Peak

We have seen that the CPP actually paid by a fixed subscriber is in average US$ 0.146 per minute. But how much out of this tariff is actually passed onto the mobile operator, or in other words how much is the net tariff received by the mobile operator for a CPP local call? There are payments that are retained by the landline operators for fixed to mobile calls such as billing and collection, landline local tariff, bad debts, etc. In Argentina the payments are retained by landline operators based on CPP agreements between landline and mobile operators and represent a total of around 20 percent of the CPP local tariff. This means that mobile operators actually get 80 percent of the CPP tariff, i.e. US$ 0.117 per minute (= 0.8*US$0.146 per minute).

Annex B

Differences for which suitable adjustments are necessary before making any cross-country comparison

Differences in teledensity. Developing countries have serving areas with lower teledensity (subscribers per square mile) than developed countries. It is well-known that even within a country, unit costs are higher in areas with low teledensity than in areas with high teledensity. Since unit costs are driven by the teledensity of individual serving areas (i.e., area served by a switch), adjustments for differences in teledensity should be made on the basis of teledensity in each serving area, not on the basis of national population divided by national land area.

Differences in peak/off-peak traffic ratios. Networks are typically designed to offer acceptable service during peak periods. When the offered load is more sharply peaked, the cost per unit of the traffic is higher.

Differences in call duration. Differences in call duration across countries (including differences resulting from the use of wireless data services, and the technologies used to support data services, differences in the use of vertical services such as voice mail and conference calling, and other differences in the mix of services offered) can lead to differences in the per minute cost of switched services across countries.

Differences in usage volume. The cost-volume elasticity of providing many telecommunications services is quite low. That is, the percentage increase in costs corresponding to a 1% increase in usage tends to be quite close to zero. Therefore, the unit cost of a company serving customers with lower usage is likely to be higher than the unit cost of a company serving customers with higher usage.

Differences in input prices. For mobile networks, important inputs include interconnection to fixed networks, telecommunications equipment (handsets and network equipment), capital, labor, and the costs of collection and fraud. The prices corresponding to these inputs can vary significantly from one country to another and also from one period to another. Argentina is a case in point due to the abrupt changes brought about in exchange rate and other costs drivers. Taxes and regulations (including license fees and roll-out requirements) may also vary significantly from one country to another.

30148695.1