

August 4, 2003

Via ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *International Settlements Policy Reform*, IB Docket No. 02-324,
International Settlement Rates, IB Docket No. 96-261
Vodafone Americas, Inc.
Notice of Oral *Ex Parte* Presentation

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, Vodafone Americas, Inc. ("VAI"), by counsel, hereby notifies the Commission that on October 4, 2003, Carolyn Groves and Robert Morse, counsel for VAI, met with the following individuals, all of the Commission's International Bureau, to discuss issues raised in the *Notice of Proposed Rulemaking*¹ in the above-referenced proceeding: Lisa Choi, Senior Legal Advisor, Policy Division; Gardner Foster, Attorney Advisor, Policy Division; Cara Grayer, Attorney Advisor, Policy Division; and Mark Uretsky, Economist.

Participants principally discussed the issues VAI raised in its comments and reply comments on the *NPRM* relating to foreign mobile termination rates, as outlined in the materials provided to Commission staff attending the meeting (copy attached). Participants also discussed the status of proceedings before the U.K. Competition Commission ("UKCC") on the subject of mobile termination rates, and in particular, the fact that a recent judicial decision upheld the UKCC on procedural grounds, but did not address the merits of the UKCC's decision.

¹ *International Settlements Policy Reform*, IB Docket No. 02-324, *International Settlement Rates*, IB Docket No. 96-261, *Notice of Proposed Rulemaking*, FCC 02-285 (rel. October 11, 2002) ("*NPRM*").

WILKINSON) BARKER) KNAUER) LLP

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An original and four copies of this letter and the attachment are enclosed. Please contact the undersigned if there are questions concerning this filing.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

By: /s/ _____
Robert G. Morse

Attachment

cc: (all via email)
Lisa Choi
Gardner Foster
Cara Grayer
Mark Uretsky

**AUGUST 4, 2003 EX PARTE PRESENTATION
ATTACHMENT**

- **The Commission's Inquiry Is Appropriately Narrow in Scope**
 - The *NPRM*'s stated objective is to determine the impact of foreign mobile termination rates ("MTRs") on U.S. consumers and whether Commission action is warranted in the first instance.
 - Not only is the actual impact of foreign MTRs on U.S. consumers unproven, but unilateral action may have unintended negative consequences; Commission action is thus not warranted at this time.

- **Overseas Regulators Have Strong Incentives to Address MTR Issues and Are Doing So**
 - The interests of overseas consumers, carriers and regulators are aligned with their U.S. counterparts – unlike benchmarks proceeding.
 - Numerous regulators in Vodafone markets have initiated efforts (or proceeded with ongoing efforts) in recent months to address MTRs: including UK; Netherlands; Portugal; and Japan. MTRs continue to drop in Vodafone markets.

- **Unilateral Action Will Have Unintended Negative Consequences**
 - Foreign governments – including those addressing MTRs – will view Commission action as unilateral and intrusive (note EU's comments). In any event, there is no consensus on an appropriate remedy, as even IXCs are divided.
 - These issues are the subject of overseas regulatory proceedings, and it is unnecessary for the Commission to evaluate these issues in this proceeding.

- **U.S. Reciprocal Compensation Rates Are an Inappropriate Proxy for MTRs – There Are Significant Differences Between Fixed and Mobile Costs**
 - MTRs in calling party pays ("CPP") markets are justifiably higher than in receiving party pays ("RPP") markets.
 - Inefficiently low MTRs constrain penetration and usage, to the detriment of domestic and U.S. consumers.
 - Economically efficient recovery of costs in a CPP arrangement must account for factors such as substantial fixed, joint and common costs, as well as demand conditions for outbound calling. Charges under RPP should be between one-third and one-fifth of those under CPP, but subscription charges would be much higher.

- **U.S. Interexchange Carriers' End User Charges Are An Appropriate Focus for the Commission**
 - U.S. interexchange carriers do not appear to have passed cost savings from significant downward movement in MTRs on to their end user customers.
 - Ovum has reviewed WorldCom's reply comments in this proceeding and determined that its original conclusions remain unchanged – *i.e.*, U.S. interexchange carriers' end user charges are substantially higher than MTRs in the studied markets, and such charges are substantially above the additional costs incurred by an efficient operator.