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Before the
Federal Communications Commission
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

_____)
 In re application of:)
)
 WORLDCOM, INC., and its Subsidiaries as)
 DEBTOR IN POSSESSION)
 Transferor)
)
 AND)
)
 MCI, INC., and its Subsidiaries)
 Transferee)
)
 For consent to transfer of control of licenses and)
authorizations held by WorldCom in bankruptcy)

WC Docket 02-215

To: The Commission

SECOND SUPPLEMENT TO
PETITION TO DENY TRANSFER OF LICENSES,
AUTHORIZATIONS, AND CERTIFICATIONS
OF WORLDCOM, INC.

Margaret F. Snyder, by her attorneys, hereby supplements her petition to deny the above referenced applications for transfer of control of WorldCom, Inc.'s ("WorldCom") licenses, authorizations and certifications.

On September 2, 2003 AT&T Corp. ("AT&T") filed a Complaint in the United States District Court for the Eastern District of Virginia against WorldCom, Onvoy, Inc. and JOHN DOES 1 through 20. A copy of the Complaint is attached hereto as Exhibit I. The Complaint alleges that WorldCom orchestrated a scheme, the "Canadian Gateway Project," to deceive AT&T into paying a substantial portion of WorldCom's cost to compete hundreds of millions of telephone calls that WorldCom's United States

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customers made to rural areas of the U.S. where termination costs are especially expensive. The scheme is both simple and very dishonest.

AT&T alleges that MCI, Onvoy and others combined to route MCI calls through Canada and back into the United States on AT&T's network, even though the calls were from and to parties in the United States. The sole purpose for routing these calls through Canada was to cause AT&T to unwittingly pay the cost of completing expensive calls to rural points in the United States.

Generally, local exchange carriers ("LECs") provide local telephone service. Local telephone networks: (1) complete local calls; and (2) originate and terminate long-distance calls. When a subscriber places a long distance call the subscriber's long distance carrier must generally access the subscriber's local telephone network and the local telephone network of the call recipient. The LECs charge long-distance carriers a fee for using their local networks to complete customers' long distance calls. In other words, long-distance carriers, like WorldCom and AT&T, must pay LECs "access charges" to use the network at each end of the call. Local access on the calling party's end of the call is called "originating access," while such access on the called party's end is "terminating access."

Independent telephone companies ("ICOs") are a category of LEC that serve primary rural areas. The "originating" and "terminating" access charges that long distance carriers pay to ICOs are generally higher than the fees other LECs charge for access. This is because it is more expensive for ICOs to provide service in rural areas where customers are dispersed, than it is to provide the same service in an urban area.

The scheme itself is quite simple, WorldCom detoured numerous WorldCom calls through Canada and onto AT&T's network, even though the calling and called parties were both in the United States. In its Complaint AT&T alleges that WorldCom "knowingly, intentionally, and recklessly" engaged in a scheme to deceive AT&T into paying the cost of terminating WorldCom's calls to certain ICOs with high termination charges.

The Complaint further alleges that in addition to shifting WorldCom's operating expenses to AT&T, the scheme also included WorldCom fraudulently causing AT&T to pay terminating fees that WorldCom "'created' out of thin air." Apparently, WorldCom controls and operates a LEC in the Phoenix, Arizona area. In its capacity as a LEC, WorldCom receives calls from long distance carriers and charges those carriers a *terminating access fee* for allowing the carriers to use its facilities to deliver calls to customers for whom WorldCom provides local telephone service. When the WorldCom LEC receives a telephone call from a WorldCom long distance customer it should simply send the calls to its local exchange and terminate the call itself. In this case WorldCom's long distance unit would be in a position of paying a fee to itself, i.e. the WorldCom LEC or terminating the call without incurring any access expense. This, however, is not what WorldCom did. According to the AT&T's Complaint, when WorldCom's long distance unit received calls serviced by the WorldCom's LEC, instead of terminating the calls it routed them through Canada onto AT&T's network. AT&T delivered these calls to MCI's local customers and duly paid the terminating access fee.

AT&T claims that the effect of WorldCom's conduct was to: (a) artificially reduce costs WorldCom incurred to compete in the long distance market, *i.e.*, WorldCom

avoided millions of dollars in terminating access fees; (b) foist upon AT&T millions of dollars in costs; and (c) assist WorldCom in competing against AT&T on issues of pricing by raising AT&T's costs and lowering WorldCom's.

What AT&T's Complaint describes is a form of corporate parasitism. The lifeblood of any corporation is its capital. Like a tapeworm, WorldCom has been sucking this lifeblood from AT&T. WorldCom's behavior in the so-called Canadian Gateway Project is relevant in this proceeding because it occurred both before and after WorldCom changed its top management and its board of directors. Thus the Canadian Gateway scheme presents a real-time view into the basic character qualifications of WorldCom's managers and employees.

WorldCom's sole defense to its fraudulent and criminal behavior is that it has since cleaned house; WorldCom claims, without any proof, that it has fired all those responsible for the accounting fraud, and appointed new officers and directors. WorldCom's new management, according to WorldCom is operating the company on the "strictest ethical standards." Yet under the watchful eye of this new, highly ethical, management the Canadian Gateway scheme was allowed to continue. This was not harmless arbitrage; WorldCom took steps to disguise the routing of the calls. Had AT&T not exposed the fraud, it is likely that present management would have permitted the Canadian Gateway scheme to continue indefinitely.

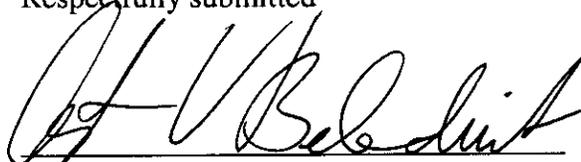
In pleading for its corporate life, WorldCom argues that its licenses should not be revoked because this would harm its employees. Yet where were these employees when Mrs. Snyder was being defrauded? Why did these same employees, who now supposedly operate under the "strictest ethical standards," stand by mutely while WorldCom was

perpetrating it Canadian Gateway fraud? Numerous WorldCom employees must of known of the Canadian Gateway scheme. Yet not a single employee stepped forward to expose the fraud. Such employees do not deserve to keep their jobs. Nor do the managers or directors who permitted to this scheme to continue.

Firing a handful of managers and appointing new directors will not change WorldCom's fraudulent and criminal behavior. The problem with WorldCom runs deeper than its management. A snake when it sheds its skin is still a snake. So too WorldCom, with its new skin of officers and directors, is still a criminal enterprise.

Respectfully submitted

By:

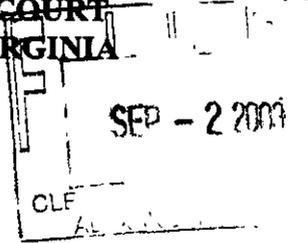


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September 11, 2003

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



AT&T CORP.,
Plaintiff,

v.

MCI, INC., A/K/A WORLDCOM, INC.
Serve: MCI, Inc.
22001 Loudoun County Parkway
Ashburn, VA 20147

ONVOY, INC.
Serve: Onvoy, Inc.
300 South Highway 169
Minneapolis, MN 55426, and

JOHN DOES 1-20,
Defendants.

Civil Action No. 03-1114-A

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff AT&T Corp. ("AT&T"), for its complaint against defendants MCI, Inc., a/k/a WorldCom, Inc. ("MCI"), Onvoy, Inc. ("ONVOY"), and JOHN DOES 1-20, alleges as follows:

INTRODUCTION

1. Beginning in or before July 2001 and continuing through the present, defendant MCI orchestrated a scheme with defendant ONVOY and other intermediaries to deceive AT&T into paying a substantial portion of MCI's cost to complete hundreds of millions of minutes of telephone calls that MCI's United States customers made to rural areas of the U.S.,

where costs to terminate traffic were and are especially expensive. Defendants MCI and ONVOY called the scheme the "Canadian Gateway Project."

2. To accomplish this deception, defendants MCI and ONVOY, as well as other intermediaries, combined to route the MCI calls through Canada and back into the United States to AT&T's network, even though the calls were from and to parties in the United States. The sole purpose of this circuitous path was to cause AT&T unwittingly to pay the substantial cost of completing these expensive calls to rural points in the U.S.

3. Defendants MCI and ONVOY and the other intermediaries were companies operating telecommunications networks. Defendants MCI and ONVOY operate telecommunications networks in the United States, while the other intermediaries operate telecommunications networks in Canada.

4. To route defendant MCI's customers' calls through Canada and onto AT&T's network, defendants MCI and ONVOY, along with other intermediaries, combined as follows: (a) MCI sent its customer calls placed to high-cost rural areas in the United States to network facilities ONVOY operated; (b) ONVOY then routed these calls to intermediaries in Canada, knowing and intending that the intermediaries would route the calls to AT&T back in the United States; and (c) the intermediaries received the calls and indeed did route the traffic to AT&T back in the U.S. over facilities that Bell Canada jointly-owns with AT&T, which facilities are reserved for the exchange of international traffic.

5. To facilitate the sham and avoid detection, defendant MCI took various steps to disguise the routing of the calls and defendant ONVOY, along with other intermediaries, assisted and facilitated defendant MCI's efforts to do so.

6. In perpetrating the "Canadian Gateway Project," defendants MCI and ONVOY were aware that transferring the MCI traffic onto AT&T's system would cause AT&T to incur the cost of completing MCI's customer calls. Defendants MCI and ONVOY were aware that AT&T tariffs and contracts did not permit the subscription directly to AT&T service for the purpose of dumping and shifting the cost of high-cost traffic upon AT&T without appropriate compensation.

7. The foregoing scheme injured AT&T to the benefit of defendants MCI and ONVOY, as well as other intermediaries. MCI improperly deceived AT&T into paying millions upon millions of dollars in terminating access costs that were rightfully MCI's obligation, either to pay directly or to pay indirectly through another carrier that knowingly accepted the obligation. In doing so, MCI caused AT&T unwittingly to assume untold millions of dollars of MCI's operating expense for calls that AT&T would and should have had no involvement in completing. In addition, MCI acquired customers from AT&T by charging them prices that were artificially reduced because of the fraudulent scheme.

8. Upon information and belief, the scheme between defendants MCI and ONVOY, along with other intermediaries, has caused AT&T injury totaling tens of millions of dollars.

JURISDICTION AND VENUE

9. This Court has original jurisdiction over this action under 28 U.S.C. § 1332. The amount of the matter in controversy exceeds \$75,000, and the plaintiff and defendants are citizens of different states.

10. This Court also has original jurisdiction over AT&T's claims against MCI and ONVOY under 28 U.S.C. § 1331 because AT&T has brought an action under the laws of the United States, that is, 18 U.S.C. § 1962.

11. Venue is proper in this judicial district under 28 U.S.C. § 1391 and 18 U.S.C. § 1965. A substantial part of the events and omissions giving rise to the claims in this Complaint occurred in this judicial district.

PARTIES

12. AT&T is a New York corporation with its headquarters in Bedminster, New Jersey. AT&T provides, among other things, telecommunications services throughout the United States.

13. MCI is a Georgia corporation with its principal place of business in Ashburn, Virginia.

14. ONVOY is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota.

15. The true names and roles of defendant Does 1-20, inclusive, are unknown to AT&T, who therefore sues said defendants by such fictitious names. AT&T is informed and believes and thereon alleges that each of the Doe defendants is legally responsible in some manner for the events alleged in this Complaint and caused injury and damages to AT&T as alleged here. AT&T will amend the Complaint to reflect the true names and roles of said Doe defendants when AT&T obtains that information.

16. Defendant MCI engages in an ongoing and continuing course of business in the State of Virginia and, upon information and belief, a substantial element of the events and tortious conduct involved in this case took place there.

BACKGROUND

Local Telephone Service and Access

17. "Local exchange carriers" ("LECs") provide local telephone service to customers ("subscribers"). LECs own and control most of the plant and facilities used to provide local telephone service in their geographic areas. By way of general illustration, in local telephone networks, subscribers' (wired) telephones are connected to the network in the subscriber's local service area by cable strung on telephone poles or buried underground. The cable connects each telephone subscriber to a local "central office" switch in the LEC's service area. A switch is a machine that receives telephone calls and "switches" (i.e., connects) the calls to the next step along the path to the destination that the subscriber dialed. If the local central office receives a call for another subscriber whose number is on that central office, the call is simply "switched" to the recipient subscriber's phone. If the call is for a subscriber on another switch, the central office sends the call to another switch that routes the call on its way. Thus, the telephone network is in essence a series of switches connected to one another. (While new technologies such as IP Networks are beginning to change the structure of local telephone systems, this description remains a generally accurate explanation of the network structure involved in this case.)

18. Local telephone networks: (1) complete local calls; and (2) originate and terminate long-distance calls. When a subscriber places a call to someone whom the subscriber's LEC also services, then that LEC originates and terminates the call. In some cases involving "local toll" traffic, where the call is outside the free local service area but not necessarily outside the territory of the LEC that originates the call (known as "local toll service"), the subscriber may choose a long distance company to carry the call from the originating LEC exchange to the

terminating LEC exchange. When a subscriber dials a number outside the LEC's service area, the caller's LEC originates the call, but then routes it outside the local service area. If the call is long-distance, the LEC sends the call to the long-distance carrier that the customer has chosen.

19. When a subscriber places a long-distance call (or when the subscriber has chosen a company other than its LEC to provide its local toll service), the customer's long-distance carrier generally must access the customer's local network and that of the call recipient to complete the call. The LECs charge long-distance carriers a fee for using their local networks to complete customers' long-distance or local toll calls. In other words, long-distance carriers must pay the LECs "access charges" to use the local networks on each end of the call. Local access on the calling party's end of the call is called "originating access," while such access on the called party's end is "terminating access."

20. Long-distance carriers generally must use local networks to complete their customers' calls, so access charges are one of the largest costs of doing business for AT&T and MCI, as well as all other long-distance companies operating in the United States.

Independent Telephone Company Termination and their Access Costs and Charges

22. Independent telephone companies ("ICOs") are a category of LEC that serve primarily rural areas. Generally, ICOs serve one or more small communities, providing telephone service to subscribers numbering from fewer than 100 to as many as several thousand, with some ICOs serving millions of access lines in the aggregate nationwide. Many ICOs are small family-owned businesses, others are subscriber-owned cooperatives, and some are publicly-traded corporations.

23. The "originating" and "terminating" access charges that long distance carriers pay to ICOs are generally higher than the fees other LECs charge for access. It is purportedly

more expensive for a telephone company to provide service in the rural areas that ICOs service, where customers are dispersed, than it is to provide the same service in an urban area, where customers are more concentrated. For example, in Alaska, the access charges for calls to rural areas are particularly high.

Connecting Carrier Arrangements and the Agreement Between AT&T and Canadian Telephone Companies

24. Since the inception of international communications service between the U.S. and Canada, AT&T, Bell Canada and Bell Canada's operating companies have provided international long distance service between their respective countries over jointly-owned, bilateral network facilities. Bell Canada (on behalf of its operating companies and other independent Canadian carriers that interconnect with Bell Canada) delivers telephone traffic over the jointly-owned, bilateral network facilities to AT&T and also to other carriers in the U.S., including defendant MCI. The U.S. carriers receiving this traffic from Canada then have the responsibility of completing that traffic to points in the United States. Among other things, the U.S. carriers receiving this telephone traffic from Canada have the responsibility of paying the terminating access charges necessary to complete the calls to the called party in the United States. AT&T receives a significant portion, but not all, of Bell Canada's U.S.-bound telephone traffic.

25. A 1994 agreement (as amended) governs the use of the AT&T-Bell Canada jointly-owned bilateral facilities and sets forth the payment arrangement for international traffic delivered over those facilities. The agreement specifies that the purpose of the arrangement is to provide telecommunications services "between points in Canada and points in the United States."

26. In the agreement, the right of Bell Canada and AT&T to use the bilateral facilities is expressly limited to the specific services the parties mutually agree to provide, as set forth in the schedules incorporated into the agreement. The services set forth in the schedules are services that originate and terminate in the U.S. or Canada, with the exception of third-

country calling. The agreement does not provide for the use of the bilateral facilities to complete calls where the calling and called parties are both located in the U.S.

27. Under the 1994 agreement (as amended), Bell Canada has the right to use the bilateral facilities and AT&T has the obligation to complete calls Bell Canada sends within the scope of the mutually-agreed services pursuant to the payment arrangements the parties established. Also, under the 1994 agreement each party is responsible for the payment of charges to carriers with whom it connects in its operating territory. Therefore, AT&T bears the expense under the agreement to pay the access charges imposed by U.S. LECs and ICOs to complete the telecommunications services the parties have agreed to provide.

28. Long-standing, general practice within the telecommunications industry, as reflected in government regulations and numerous agreements among industry participants, is that long-distance companies receiving international calls are obligated to bear the expense of interconnection with LECs and ICOs in their respective territories.

Defendants' Fraudulent Conduct

29. Beginning in or before July 2001 and continuing through the present, defendants MCI and ONVOY knowingly, intentionally, and recklessly engaged in a scheme to deceive AT&T into paying the cost of terminating defendant MCI's customer calls to certain ICOs with high terminating access charges. To accomplish this scheme, defendants MCI and ONVOY worked deceptively to route traffic from MCI's customers onto and through the networks of intermediaries in Canada, and then from Canada, onto AT&T's network in the United States to high-cost U.S. ICOs. By routing the calls in the manner outlined in this Complaint and by other deceptive steps, defendants MCI and ONVOY knew and reasonably should have known that their actions would and did deceive AT&T into bearing responsibility

for terminating these calls and paying the attendant high terminating access charges. That is, defendants MCI and ONVOY knew and reasonably should have known that their actions would and did deceive AT&T into treating the calls as international calls properly routed under the Bell Canada-AT&T agreement, that is, calls originating "from points in Canada" and terminating to "points in the United States." In reality, AT&T had no responsibility to bear these costs and defendant MCI did: it was MCI's responsibility to pay the high costs of these calls from MCI customers in the United States to called parties also in the United States.

30. Taking advantage of the 1994 agreement between AT&T and Bell Canada, defendants MCI and ONVOY, along with other intermediaries, combined to detour large quantities of MCI customer calls through Canada and onto AT&T's network, even though the calling and called parties were both in the United States.

31. It was further a part of the scheme that defendants MCI and ONVOY, along with other intermediaries, falsely and fraudulently intended to and did deceive AT&T into the belief that the telephone traffic AT&T received from Canada was traffic that actually had originated in Canada, knowing that this belief would be and was false.

32. It was further a part of the scheme that defendants MCI and ONVOY, along with other intermediaries, knew or should have known that their scheme would and did deceive AT&T into paying the high cost of terminating MCI's customers' calls to certain ICOs, knowing that in truth MCI had the obligation to pay the cost of terminating the calls of its customers.

33. It was further a part of the scheme that defendants MCI and ONVOY knew and reasonably should have known that, but for their fraudulent scheme, AT&T would not have incurred the high costs of completing the referenced calls coming from Canada.

34. It was further a part of the scheme that defendants MCI and ONVOY, along with other intermediaries, took a series of steps to conceal and disguise their scheme to avoid its detection and allow it to continue. These steps included without limitation: causing and facilitating the routing of defendant MCI's customer traffic through intermediary telephone companies so as to disguise the origin of the traffic, routing the traffic to and through Canada, selectively choosing which calls to divert so as to minimize the chance that their scheme would be discovered, and sending the calls onto a system where defendants knew that they would be intermixed with billions of minutes of other, truly international, calls.

35. It was further a part of the scheme that defendants MCI and ONVOY, along with other intermediaries, used this improper transfer of costs to artificially reduce MCI's expenses, increase the revenues of defendant ONVOY, along with other intermediaries, and increase AT&T's costs. It was foreseeable and intended that this scheme would and did afford MCI an unfair and groundless competitive advantage over AT&T.

36. Defendants MCI and ONVOY knowingly, intentionally, and recklessly took at least the following actions to divert and redirect to AT&T calls from MCI's customers to ICOs with high terminating costs, to cause defendant MCI to avoid those high costs, to cause AT&T to incur them, and fraudulently to increase the revenues of defendant ONVOY:

- a) MCI segregated calls from MCI's customers in the United States placed to numbers served by U.S. ICOs with high terminating access rates;
- b) MCI routed these high-terminating-cost domestic calls to ONVOY;
- c) ONVOY agreed with MCI to transfer these high-terminating-cost calls between parties in the United States to Canada over a private line so as to commingle them in Canada with public switched voice traffic originating in Canada;

- d) ONVOY transferred these calls over a private line to intermediaries in Canada, where the MCI customer calls from and to points in the United States were commingled with other public switched voice traffic originating in Canada and onto the Bell Canada network;
- e) Bell Canada sent these high-terminating-cost calls from MCI customers in the U.S. back to the United States over interconnection trunks established to carry international telephone traffic;
- f) AT&T received these calls as international long distance traffic under its agreement with Bell Canada;
- g) Due to the routing of the traffic and other deceptive acts, defendants MCI and ONVOY deceived AT&T, and caused AT&T to be deceived, into believing that the calls were international calls properly encompassed within the 1994 AT&T-Bell Canada agreement and that AT&T was responsible for paying the terminating access charges; and
- h) AT&T completed these calls and paid the high terminating access rates to the terminating ICOs.

37. Defendants MCI and ONVOY made and caused others to make numerous false and fraudulent representations and omissions of material fact to AT&T indicating that:

- a) high-terminating-cost calls coming from Canada were international calls that had originated in Canada, when in truth they were MCI customers' calls that had originated in the United States; and
- b) AT&T had the obligation to complete the foregoing calls and incur the associated high terminating costs, when in fact these obligations were MCI's.

38. Defendants MCI and ONVOY falsely and fraudulently concealed and caused others to conceal that:

- a) MCI was the long distance carrier responsible for completing and paying the high terminating access costs on the foregoing calls; and
- b) a large portion of the foregoing calls originated in the United States.

39. Defendants MCI and ONVOY knew full well (or but for their reckless indifference to the truth should have known) that AT&T would bear the terminating access charges on any traffic AT&T received from Canada. Defendants MCI and ONVOY, along with other intermediaries, routed MCI's U.S. traffic in the manner detailed in this Complaint intending and knowing (or but for their reckless indifference to the truth should have known) that it would cause AT&T, not MCI, to bear the U.S. access charges on the MCI customer calls sent over the bilateral AT&T-Bell Canada facilities to AT&T.

**Defendants' Outright Theft of AT&T Revenue
Via the Creation of False and Fraudulent Terminating Access Fees**

40. While Defendants' "Canadian Gateway" scheme generally involved defendants MCI and ONVOY deceptively shifting MCI's operating expense to AT&T, the scheme also included defendants MCI and ONVOY fraudulently causing AT&T to pay terminating access fees that defendants MCI and ONVOY "created" out of thin air. Moreover, whereas the rest of the "Canadian Gateway" scheme involved defendants MCI and ONVOY causing AT&T to pay fees to local ICOs that were MCI's responsibility, here defendants MCI and ONVOY caused AT&T to pay the counterfeit access fees directly to defendant MCI.

41. Defendant MCI controls and operates a local exchange in or around Phoenix, Arizona. In operating this local exchange, defendant MCI receives calls at this location from long distance carriers and charges those carriers a terminating access fee for allowing the carriers

to use defendant MCI's LEC to deliver the calls to the customers for whom defendant MCI provides local telephone service.

42. Accordingly, when defendant MCI receives a telephone call from its long distance customers in other areas of the U.S. destined for this LEC, defendant MCI should simply send the calls to defendant MCI's local exchange and terminate the calls itself. For these calls, defendant MCI thus provides both long distance service and access to the local exchange at the terminating end of the calls. So, MCI's long distance unit would be in the position of either paying a terminating access fee to itself, *i.e.*, to the LEC portion of defendant MCI's business, or terminating the call without incurring any access expense.

43. In perpetrating this theft, when defendant MCI received long distance calls to customers serviced by MCI's local exchange, defendant MCI segregated these calls and sent them to defendant ONVOY to be routed onto AT&T's network via Canada. Of course, when AT&T received these calls from Bell Canada, AT&T delivered them to defendant MCI's local exchange and paid MCI the terminating access fee pursuant to the access arrangement between AT&T and MCI.

44. By this scheme, therefore, defendants MCI and ONVOY "created" terminating access fees for defendant MCI under circumstances where none would exist otherwise. Of course, there is no reason whatsoever for these calls ever to have left defendant MCI's network or for the fees ever to have been assessed against and paid by AT&T. In this way, defendant MCI committed larceny against AT&T and defendant ONVOY aided and abetted this larceny by causing AT&T to pay fees to defendant MCI, to which defendant MCI had no conceivable claim.

45. Defendants MCI and ONVOY effectively would have lost revenue had defendant MCI properly completed the MCI network calls to its local exchange. As to defendant MCI, MCI had to complete calls to and from its own customers and would have incurred the costs of handling the traffic without receiving any access fee as the local exchange completing such calls. As to defendant ONVOY, it would have received no traffic and no compensation from MCI if MCI did not route such calls through it. By this scam, defendants MCI and ONVOY fraudulently generated revenue to which they normally would not be entitled by causing AT&T to pay MCI for terminating calls to MCI's own LEC.

Specific Examples of Improper Routing

46. On or about July 12, 2002, Wells Fargo shifted its long distance business to defendant MCI due, upon information and belief, to price differences between AT&T and MCI. *Beginning the day after the Wells Fargo network had cut over to MCI*, the traffic routed south to AT&T from Canada included a substantial volume of Wells Fargo traffic that had originated in the United States, as recent AT&T analysis has shown.

47. Similarly, for United Airlines, another account for which AT&T and defendant MCI competed, defendant MCI has routed United calls from Chicago, Illinois through Canada, and from there to AT&T for termination at various points throughout the United States. Beginning July 16, 2001, MCI routed at least 9,697 calls from United's Chicago headquarters through Canada and on to AT&T's network for termination. Upon information and belief, defendant MCI caused these calls to be routed to AT&T through Canada via defendant ONVOY, along with other intermediaries.

48. Perhaps most alarmingly, defendants MCI and ONVOY have also diverted to Canada calls U.S. Government personnel placed in the United States to customers served by

ICOs in the United States. In so doing, defendants MCI and ONVOY have demonstrated their willingness to play fast and loose with our national interests to line their pockets with cost savings from local and interexchange telephone tariffs they dodged. A substantial number of domestic calls from the offices of various U.S. Government agencies in Washington, D.C., the Eastern District of Virginia and other locations were received by AT&T from Canada for call termination. Upon information and belief, those calls were part of the "Canadian Gateway Project" and were associated with lines that were subscribed to MCI. This included calls from:

- a) the United States Department of State;
- b) the United States Department of Defense;
- c) the Department of the Army;
- d) the Department of the Navy;
- e) Members of Congress;
- f) the Department of Justice;
- g) the General Services Administration;
- h) the United States Agency for International Development;
- i) the National Traffic and Safety Bureau;
- j) the Federal Deposit Insurance Corporation;
- k) the Library of Congress;
- l) the Headquarters of the United States Postal Service;
- m) the Department of Agriculture;
- n) the Social Security Administration;
- o) the Department of the Interior;
- p) the Department of Transportation;

- q) the Department of Health and Human Services;
- r) the Department of Commerce;
- s) the Department of Energy;
- t) the Department of Labor;
- u) the Nuclear Regulatory Commission;
- v) the National Aeronautics and Space Administration.

49. A large number of calls in the scheme emanated from offices of the United States Departments of Defense, Army, and Navy, including divisions and agencies within these departments, located in the Eastern District of Virginia.

50. The only purpose from an economic or network perspective to do what defendants MCI and ONVOY, along with other intermediaries, did was to disguise the nature of the traffic and to shift the costs of terminating in high cost areas to AT&T.

51. Defendants MCI and ONVOY, along with other intermediaries, also routed intrastate calls (i.e., calls where the calling and called parties are both located in the same state) to AT&T's network via Canada. Calls from Canada are considered "interstate" for access charge purposes (i.e., they are treated the same as calls where the calling and called parties are both located in different states). These calls typically have much lower terminating access rates than applicable access rates for intrastate calls like many of the ones improperly shifted onto AT&T's network.

52. As a result of this routing, defendants MCI and ONVOY, along with other intermediaries, in essence converted intrastate calls into interstate calls for access charge purposes, thereby reducing the access charges they paid to the terminating local companies.

53. The intrastate tariffs of terminating local telephone companies generally prohibit the use of fraudulent means to convert intrastate traffic in this manner so as to avoid higher intrastate rates by making traffic appear to be interstate. Accordingly, the scheme of defendants MCI and ONVOY, along with other intermediaries, to route this intrastate traffic out of the country, and then via AT&T's network all the way back to the state of origin, violated these state tariffs.

Magnitude and Persistence of Defendants' Scheme

54. Typically, only 20% of the traffic over AT&T's network consists of calls destined for high-terminating-cost U.S. ICOs, whereas AT&T analysis has shown that over the period in question approximately 49% of the traffic inbound to AT&T from Canada has been directed to those ICOs.

55. AT&T analyzed call records for traffic AT&T received from Canada for delivery in the United States for the time period July 22, 2002 through July 23, 2003. Of the 663 million customer-generated international long distance minutes AT&T received in that time period (excluding premium-priced services), this analysis indicated that only 52% appear to have been Canada-to-U.S. telephone calls. Focusing upon the remaining group of calls that were not Canada-to-U.S. telephone calls, **25%** of the minutes (approximately 166,000,000) originated in the United States, and roughly 19% were calls whose calling party number was missing from the call detail. Of the 25% of the calls coming to AT&T from Canada that originated in the United States, **88%** (approximately 145,000,000 minutes out of 166,000,000) were calls to high-terminating-cost ICOs. For purposes of this analysis, the universe of calls analyzed excluded all calls terminating to wireless carriers, domestic U.S. "competitive" LECs (known as CLECs), and toll-free service.

56. AT&T's data also establishes that defendants MCI and ONVOY, along with other intermediaries, have continued to engage in the foregoing misconduct up to and including in or about the date of this Complaint. AT&T has used a variety of means by which to place test calls from the United States over MCI's telephone system to high-cost ICOs also in the U.S.

Test results included:

- a) Using a pre-paid MCI calling card, 8 of 15 test calls to a location appearing in prior call records were diverted to Canada and routed back into the U.S. for termination via AT&T;
- b) Using the telephone service of one of MCI's existing subscribers (with full permission to do so), 9 of 10 test calls to a location appearing in prior call records were diverted to Canada and routed back into the U.S. for termination via AT&T; and
- c) Using 1010222, MCI's dial around long distance service (by which someone who is not an established MCI subscriber can use MCI's network on a one-time basis), 14 of 15 test calls to a location appearing in prior call records were diverted to Canada and routed back into the U.S. for termination via AT&T;

57. The practical effect of MCI's and ONVOY's conduct was to: (a) artificially reduce the costs MCI incurred to compete in the long distance market, i.e., MCI avoided millions upon millions of dollars in terminating access costs; (b) foist upon AT&T unknown millions in costs that it did not duly incur in competing in the long distance market, i.e., access fees that were MCI's responsibility; (c) assist MCI to compete against AT&T on issues of price by raising AT&T's costs and lowering MCI's; and (d) provide ONVOY substantial additional revenue from

the routing of calls through Canada that but for the fraudulent scheme would not have left the United States.

COUNT ONE

Fraud

(Against both Defendants)

58. Defendants MCI and ONVOY knowingly, intentionally and recklessly engaged in a course of conduct involving trick, deception and artifice, that is, conduct or artifice designed to trick and deceive AT&T into paying the terminating access charges for MCI's customer traffic to high-cost ICOs in the United States.

59. Defendants MCI and ONVOY knowingly, intentionally and recklessly worked to accomplish the foregoing trick, deception and artifice to cause AT&T to pay the terminating access charges on MCI customer calls by arranging a course of multi-step routing through Canada to dump those calls onto the AT&T network in a manner designed fraudulently to deceive AT&T into the belief that the calls were truly international calls that legitimately fell under AT&T's 1994 agreement with Bell Canada, when in truth those calls were domestic calls over the MCI network in which the calling and called parties were both in the United States.

60. Defendants MCI and ONVOY made and caused others to make numerous false and fraudulent representations and omissions of material fact to AT&T that: (a) high-terminating-cost calls coming from Canada were international calls that had originated in Canada, when in truth they were MCI's customers' calls that had originated in the United States; and (b) AT&T had the obligation to complete the foregoing calls and incur the associated high terminating costs, when those obligations in fact belonged with MCI.