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February 5, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: International Settlements Policy Reform (IB Docket No. 02-324)
International Settlement Rates (IB Docket No. 96-261)

Dear Ms. Dortch:

On Wednesday, February 4, 2004, Jim Talbot and I from AT&T met with Don Abelson of the International Bureau to discuss the above-referenced proceeding.

During this meeting, we focused on the need to reform the ISP to provide a more rapid transition to commercial arrangements with foreign correspondents, while maintaining appropriate safeguards against rate increases and whipsaws. We discussed the importance of updating the 1997 benchmarks, and briefly reviewed AT&T's "Revised Tariff Component Pricing" study that produces significantly lower cost ceilings for fixed and mobile traffic than the existing benchmarks. We also highlighted the large and growing problem of high mobile termination rates, and steps the Commission should take to reduce the impact these above-cost rates have on US consumers. We distributed the attached at the meeting.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Sincerely,

Attachment
cc: D. Abelson

International Settlements Policy Reform

1. ISP Reform Should Encourage Greater Use of Commercial Arrangements with Targeted Safeguards to Prevent Price Increases and Whipsaws

- U.S. carrier successes in negotiating below-benchmark rates on ISR routes show that commercial arrangements not subject to ISP rate and proportionate return requirements will lead to more cost-based rates
- Lack of competition in most foreign markets requires continued Commission safeguards against rate increases and other foreign market power abuses

2. The Commission Should Encourage More Rapid Use of Commercial Arrangements at Benchmark Rates

- Simplify the transition to commercial arrangements by removing specific ISP requirements at benchmarks
- No need for an intermediate ISR step
- Remove burdensome 50 percent demonstration
- Remove 43.51 and 64.1001 filing requirements for commercial arrangements
- Allow benchmark showings by agreement or affidavit

3. Alternative Thresholds for Removal of ISP Would Impede Competition

- ISR threshold would prevent commercial arrangements on non-WTO routes and continue the burdensome ISR authorization process
- Removal of ISP on all routes would encourage abuse of market power by foreign monopolists

4. ISP Reform Requires Continued Commission Safeguards Against Rate Increases and Whipsaws.

- Foreign monopolists control almost three out of four U.S. international routes
- Over 170 countries without full WTO market-opening commitments
- Alternative termination not ubiquitous and cannot handle large U.S. traffic volumes
- Potential harm to U.S. consumers from lack of competition in foreign markets, concerted action by foreign carriers and foreign government-mandated rate floors

5. Necessary Safeguards on All Routes

- Continue existing prohibition on non-cost-based rate increases
- Continue existing prohibition on whipsaws
- Enforcement through a carrier-initiated complaint process
- Expedited complaint procedures
- Continue existing "no special concessions" rule
- Continue 43.61 traffic and revenue reporting
- These safeguards should continue to apply to all routes, including where ISP rate and proportionate return requirements are removed.

6. 1997 Benchmarks Should be Revised

- Broad support for continuation of benchmarks policy, including by former opponents of benchmarks
- 1997 benchmarks no longer adequately serve the Commission objective of cost-based rates
  - –Based on 1996 data
  - –U.S. carrier rates to many countries now below 4 cents
  - –Average 2001 U.S. settlement rate (14 cents) is below the lowest 1997 benchmark rate
  - –1997 benchmark rates now used to justify requests for rate *increases* (e.g., the Philippines)
  - – 1997 *Benchmarks Order*, ¶ 112: "[P]eriodic revisions are necessary to avoid the problem in the future of our benchmarks not keeping pace with cost reductions, and to encourage further movement toward cost-based rates."
- The Commission should issue a FNPRM on new benchmarks

7. The Commission Should Restrain Rising Foreign Mobile Termination Rates

- Fast-growing problem threatens to reverse progress toward cost-based rates
- No market constraints or sufficient foreign regulatory action to prevent increases
  - –90 countries now have mobile surcharges
  - –no cost justification for these charges
- First two "Key findings" of Ovum Jan. 2004 report on mobile termination rates:
  - – "There are no effective market mechanisms to curb the price of the mobile termination service."
  - – "There is considerable evidence that mobile termination rates (MTRs) are well above costs in most countries. We estimate that profit margins of over 100% are commonplace for most mobile network operators (MNOs)."

- Foreign mobile carrier claims concerning U.S. carrier surcharges are a red herring
  –Foreign mobile carriers are subject to no competition at all in setting termination rates; U.S. carriers are subject to market forces and must recover their costs in the highly competitive U.S. market
  –AT&T sets its consumer mobile surcharges to recover the incremental charges for this traffic levied by foreign international carriers

8. Requested Commission Action on Mobile Termination

- Reaffirm that existing benchmarks apply to all traffic terminating on foreign mobile networks, including on routes subject to commercial arrangements
  –Mobile termination rates exceed 1997 benchmarks in 39 countries
- Reaffirm that existing prohibitions on non-cost-based increases apply to all traffic terminating on foreign mobile networks, including on routes subject to commercial arrangements
- Propose new benchmark rates for traffic terminating on foreign mobile networks in the FNPRM requested above

9. Revised Tariff Component Pricing Model

- Analysis of the network components used to terminate international calls in the same 65 countries used for the Commission's 1997 *Benchmarks Order* TCP study
- Largely based on foreign carrier tariffs
- Uses 2003 data
- Expands national extension component to model more closely the network components used for international termination
- Includes model for mobile termination
- Removes retail costs not relevant to international call termination
- Uses international switching rate conservatively based on domestic tandem switching analogs
- Average TCP rate for termination on fixed networks of 4.03 cents (approx. 3.75 cents for upper-income countries, approx. 4 cents for middle income & approx. 4.75 cents for lower and 'teledensity less than one' countries)
- Average TCP rate for termination on fixed networks of 8.23 cents (approx. 8 cents for upper-income countries, approx. 8.5 cents for middle income & approx. 8.5 cents for lower and 'teledensity less than one' countries)