MORRISON & FOERSTER LLP

ATTORNEYS AT LAW

SAN FRANCISCO
LOS ANGELES
DENVER
PALO ALTO
WALNUT CREEK
SACRAMENTO
CENTURY CITY
ORANGE COUNTY
SAN DIEGO

2000 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20006-1888
TELEPHONE (202) 887-1500
TELEFACSIMILE (202) 887-0763

NEW YORK
WASHINGTON, D.C.
NORTHERN VIRGINIA
LONDON
BRUSSELS
HONG KONG
BEIJING
SHANGHAI
SINGAPORE
TOKYO

March 4, 2004

Writer's Direct Contact
202/887-1510
CTritt@mofo.com

Electronic Filing

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

Re: **Ex Parte Notice**
International Settlements Policy Reform, International Settlement Rates
(IB Docket Nos. 02-324, 96-261)

Dear Ms. Dortch:

On March 3, 2004, Robert A. Calaff, Senior Corporate Counsel, Governmental and Industry Affairs, and Jennifer L. Kostyu and the undersigned of Morrison & Foerster LLP, all representing T-Mobile USA, Inc. ("T-Mobile"), spoke with Sheryl Wilkerson, Legal Advisor to Chairman Powell, by telephone and in separate meetings discussed with Jennifer Manner, Senior Counsel to Commissioner Abernathy, Paul Margie, Spectrum and International Legal Advisor to Commissioner Copps, Sam Feder, Legal Advisor on Spectrum and International Issues to Commissioner Martin, and Barry Ohlson, Senior Legal Advisor to Commissioner Adelstein, the above-referenced proceeding. T-Mobile noted that the record does not support the need for unilateral Commission intervention in the oversight of foreign mobile termination rates and urged the Commission to allow the market and foreign regulators adequate time to address this issue. Copies of the attached discussion points also were provided to Ms. Wilkerson and distributed at the advisor meetings.

Pursuant to section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed.

Very truly yours,

/s/ Cheryl A. Tritt

Cheryl A. Tritt
Counsel to T-Mobile USA, Inc.

cc: Sheryl Wilkerson
Jennifer Manner
Paul Margie
Sam Feder
Barry Ohlson
Anna Gomez

T-MOBILE USA, INC. DISCUSSION POINTS
FOREIGN MOBILE TERMINATION RATES

- The record does not support the need for unilateral intervention or further action at this time by the Commission in the oversight of international wireless termination rates.

- Foreign regulators have been addressing, and will continue to address, foreign mobile termination charges. The record is replete with descriptions of foreign regulators' efforts to address mobile termination rates, including the United Kingdom, Australia and much of Western Europe. Vodafone has noted that on average mobile termination rates in Europe are declining by 10% each year. The regulators share with the Commission the incentive to investigate and attend to such charges because their constituents also pay mobile termination fees. Importantly, foreign regulators, unlike the Commission, have direct authority over carriers operating in their countries and are already taking steps to lower mobile termination rates. Market forces also are acting to reduce termination charges in many foreign countries.

- To make any informed decision regarding the regulation of foreign mobile termination rates, the Commission would need to obtain and examine extensive information about local conditions in foreign markets. The Commission is limited jurisdictionally in its ability to collect this information and affect international wireless termination rates. The most effective response would be to allow the market and foreign regulators adequate time to address this issue.

- AT&T, COMPTEL, Sprint and MCI have presented no evidence that the 1997 benchmark rates should be applied to foreign mobile termination charges.

    - When the Commission adopted the benchmarks, it did not intend for them to apply to international wireless termination rates.

    - The Commission implemented the benchmarks to address foreign carriers' discriminatory behavior in which they charged U.S. carriers a higher rate for terminating calls from the United States than the termination rate they assessed their own domestic customers. In this case, foreign carriers are not discriminating against U.S. carriers because the mobile termination charges imposed by foreign carriers apply equally to all traffic, regardless of where the call originated.

    - The FCC also took unilateral action in 1997 because foreign regulators were not addressing the foreign carriers' discriminatory behavior. In contrast, a substantial record in this case has been developed describing the efforts of foreign regulators to address wireless termination charges.

- T-Mobile shares the Commission's concerns that U.S. consumers should be protected from anti-discriminatory practices at the hands of foreign carriers. Unilateral action by the Commission, however, could severely damage the United States' relationship with foreign regulators that are addressing mobile termination rates. In those instances in which a foreign carrier is imposing discriminatory mobile termination rates against U.S. consumers, and the regulator which has jurisdiction over that carrier fails to address those rates, the Office of the United States Trade Representative is entrusted to protect U.S. consumers through bi-lateral trade negotiations.

- Carriers are best suited to determine how to inform customers about rates generally and international rates specifically. Adopting rules requiring carriers to standardize their customer education efforts risks creating more, not less, customer confusion about foreign mobile termination charges.

    - For example, T-Mobile specifically offers a flat-rate pricing plan pursuant to which customers pay the same rate to call a foreign country regardless of whether the call terminates on a wireline or wireless network. This plan has been very well-received by customers and greatly minimizes customer confusion. T-Mobile has included information in customers' bills and on its website regarding its flat rate international pricing plan and explained that customers under the plan pay one consistent rate when calling abroad, with no hidden toll charges.

- If subscribers are dissatisfied by a carrier's imposition of foreign mobile termination surcharges or failure to address or notify them about such charges, the subscriber can look to another more responsive carrier for service. Subscribers also will look to other carriers that can offer the lowest rates. Accordingly, U.S. facilities-based wireline and wireless carriers have incentives to seek out low termination rates, including those for mobile calls.