



Qwest
607 14th Street, NW, Suite 950
Washington, DC 20005
Phone 303-383-6608
Facsimile 303-896-1107

Timothy M. Boucher
Corporate Counsel

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EX PARTE

February 20, 2008

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

Re: *In the Matter of Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. §160(c), WC Docket No. 07-204*

Dear Ms. Dortch,

The purpose of this written *ex parte* is to respond to BT Americas Inc.'s ("BT") late-filed comments in opposition to Qwest Corporation's ("Qwest") petition¹ requesting that the Federal Communications Commission ("Commission") exercise its authority under Section 10 of the Communications Act of 1934, as amended, ("Act") and forbear from enforcing ARMIS and 492A ("ARMIS") reporting requirements against Qwest.²

In arguing that it is not in the public interest to grant Qwest's forbearance petition, BT asserts that "European experience has been that the public reporting of the type of information as

¹ Qwest filed its forbearance petition on September 13, 2007. On September 20, 2007, the Wireline Competition Bureau ("Bureau") released a Public Notice requesting that comments be filed on Qwest's petition by October 22, 2007 and reply comments by November 6, 2007. *See* Public Notice, WC Docket No. 07-204, DA 07-3949. On October 18, 2007, in response to a request for an extension of time from the Washington Utilities and Transportation Commission, the Bureau released an Order extending the comment and reply comment dates until December 6, 2007 and December 21, 2007, respectively. *See* Order, 22 FCC Rcd 18598 (2007). Despite having an additional 45 days to prepare its comments, BT did not file its comments opposing Qwest's petition until December 21, 2007, the due date for reply comments in this forbearance proceeding. As a result, it was not possible for Qwest to respond to BT's opposition when Qwest filed its reply comments on December 21, 2007.

² In this *ex parte*, Qwest only responds to arguments that are unique to BT that were not raised by other parties in their December 6, 2007 comments on Qwest's forbearance petition.

to which Qwest seeks forbearance leads to lower prices and higher investment.”³ However, BT provides no factual support for this conclusory claim regarding European reporting requirements. Furthermore, BT otherwise presents no evidence that would allow the Commission to draw any conclusions with regard to whether forbearance from applying ARMIS reporting requirements to Qwest is consistent with the public interest.

BT asserts that information contained in the European Competitive Telecommunications Association’s (“ECTA”) Regulatory Scorecard supports its public interest arguments regarding Qwest’s petition. The Regulatory Scorecard is an annual survey by the ECTA of communications regulation in 19 European countries.⁴ The Regulatory Scorecard is a report commissioned by the ECTA that purports to compare telecoms’ regulatory environment and the application of the current European Union (“EU”) Telecoms legislative Framework in 19 European countries.⁵

The overarching conclusion of this report is not that public availability of regulatory reports leads to lower prices or higher levels of investment but that national regulatory authorities (“NRAs”) lack the powers and independence necessary for proper enforcement of rules under the EU telecoms framework.⁶ There is simply no reasonable way the contents of the ECTA’s Regulatory Scorecard can be interpreted to support the hypothesis that “the availability of regulatory reports leads to lower prices and higher communications investment,” as BT

³ See BT Comments at 6.

⁴ ECTA Regulatory Scorecard--Report on the relative effectiveness of the regulatory frameworks for electronic communications in Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Norway, Poland, Portugal, Slovenia, Spain, Sweden and the United Kingdom--November 2007.
<http://www.ectaportal.com/en/basic651.html>

⁵ November 28, 2007 ECTA press release announcing the 2007 ECTA Regulatory Scorecard, p. 1, ¶2.
http://www.ectaportal.com/en/upload/File/Regulatory%20Scorecards/2007/2007_Regulatory_Scorecard_press_release_final.pdf

⁶ “The powers and independence of National Regulatory Authorities (NRAs) have in many cases been restricted and their ability to enforce rules under the EU Telecoms Framework have been compromised, according to a report issued today by ECTA at its Regulatory Conference. The independence of the telecoms regulatory system from Government appears to affect the overall ‘regulatory effectiveness’ of countries as measured under the 2007 ECTA Regulatory Scorecard. In particular, state ownership in telecoms companies seems to be particularly influential in determining overall effectiveness of telecoms regulation.” See *id.* ¶ 1.

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contends.⁷ As such, the Regulatory Scorecard provides no support for BT's contention that granting Qwest's ARMIS forbearance petition would not be in the public interest.⁸

As Qwest has demonstrated in this *ex parte* and in its Reply to Oppositions,⁹ none of the arguments raised by BT provide a basis for denying Qwest's forbearance petition. The Commission should find that Qwest's petition satisfies the statutory criteria in Section 10 of the Act and that it is not necessary to apply ARMIS reporting requirements to Qwest.

This submission is made pursuant to Section 1.49(f) and 1.1206(b) of the rules of Commission.¹⁰

Respectfully submitted,

/s/ Timothy M. Boucher

cc: Alan Feldman (alan.feldman@fcc.gov)

⁷ The ECTA's Regulatory Scorecard is based on responses from national regulatory authorities and ECTA members to a detailed questionnaire with 118 questions. Only one question in the survey directly addresses whether regulatory financial results are published and this question, Question 45, only accounts for about one percent of the overall weighting of responses. Thus, even if the survey was valid, which is questionable, it would not be possible to conclude that regulatory reporting requirements lead to lower prices and higher investment.

⁸ Similarly, BT's assertion that "the New Zealand Experience" confirms ECTA's analysis is at best confusing and provides no support for BT's argument that a grant of Qwest's forbearance petition is inconsistent with the public interest. *See* BT Comments at 9-10.

⁹ *See* Qwest Reply to Oppositions, WC Docket No. 07-204, filed Dec. 21, 2007.

¹⁰ *See* 47 C.F.R. §§ 1.49(f), 1.1206(b).