

WORLD TRADE ORGANIZATION

RESTRICTED

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Group on Basic Telecommunications

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COMMUNICATION FROM THE UNITED STATES

Conditional Offer

Revision

The following communication is circulated at the request of the United States to members of the Group on Basic Telecommunications.

On November 13, 1996, the United States improved its market access commitments (S/GBT/W/1/Add.2) in response to requests from our negotiating partners. The United States is now revising its offer to delete the words "subject to spectrum availability" as suggested by the Chairman's Note of February 3, 1997 (S/GBT/W/3). In addition, the United States has clarified its offer with regard to direct foreign ownership of common carrier radio licenses. The United States maintains its market opening offer of 100% indirect foreign ownership of common carrier radio licenses. As a result, foreign investors will receive national treatment in accordance with U.S. law.

The United States has also clarified that its offer does not include one-way satellite transmissions of Direct-to-Home and Direct Broadcast Satellite television services and of digital audio services. This technical change is required because these services are considered basic telecommunications in the United States but are not part of these negotiations.

The U.S. commitments are based on the Chairman's Note of January 16, 1997 (S/GBT/W/2/Rev.1).

This schedule is conditioned upon the agreement by a critical mass of WTO members to provide market access and national treatment for basic telecommunications services, as well as to provide commitments regarding the regulatory principles contained in the reference paper. The United States reserves the right to supplement or modify this schedule during the period ending on February 15, 1997 or to make technical corrections at any time.

UNITED STATES - REVISED CONDITIONAL OFFER

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Sector or Sub-sector	Limitations on Market Access		Limitations on National Treatment	Additional Commitments
2.C. TELECOMMUNICATIONS SERVICES*:				The United States undertakes the obligations contained in the reference paper attached hereto.
2.C.a. Voice services	(1) None		(1) None	
2.C.b. Packet-switched data transmission services	(2) None		(2) None	
2.C.c. Circuit-switched data transmission services	(3) None, other than - Comsat has exclusive rights to links with Intelsat and Inmarsat. - Ownership of a common carrier radio license: Indirect: None Direct: May not be granted to or held by		(3) None	
2.C.d. Telex services				
2.C.e. Telegraph services				
2.C.f. Facsimile services				
2.C.g. Private leased circuit services		(a) foreign government or the representative thereof (b) non-U.S. citizen or the representative of any non-U.S. citizen		

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>2.C.o. Other</p> <p>Mobile Services</p> <p>Analogue/Digital cellular services</p> <p>PCS (Personal Communications services)</p> <p>Paging services</p> <p>Mobile data services</p> <p>*Excluding one-way satellite transmissions of DTH and DBS television services and of digital audio services</p>	<p>(c) any corporation not organized under the laws of the United States or</p> <p>(d) U.S. corporation of which more than 20% of the capital stock is owned or voted by a foreign government or its representative, non-U.S. citizens or their representatives or a corporation not organized under the laws of the United States.</p> <p>(4) Unbound except as indicated by horizontal commitments</p>	<p>(4) Unbound except as indicated by horizontal commitments.</p>	

ATTACHMENT TO THE UNITED STATES CONDITIONAL OFFER IN
BASIC TELECOMMUNICATIONS SERVICES

REFERENCE PAPER

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured¹

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided.

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

¹Rural local exchange carriers may be exempted by a state regulatory authority for a limited period of time from the obligations of section 2.2. with regard to interconnection with competing local exchange carriers.

Rural telephone companies do not have to provide interconnection to competing local exchange carriers in the manner specified in section 2.2. until ordered to do so by a state regulatory authority.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.