

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 United States has improved the market access commitments contained in its offer of April 30, 1996 (S/NGBT/W/12/Add.3/Rev.2) in response to requests from our negotiating partners.

The revision commits the United States to provide national treatment with regard to access to licenses to land submarine cables in accordance with its laws and regulations. This revision reconfirms the United States commitment to promote competitive telecommunications services in order to increase the availability and variety of telecommunications services and to lower the prices at which those services are offered. With this revised offer, the United States has improved its offer for the third time, showing its commitment to successfully concluding these negotiations.

In light of the growing consensus that schedules need to be standardized, the United States has revised its offer so that it is technology neutral and includes all subsectors of basic telecommunications services. The United States hopes that the Group on Basic Telecommunications can reach consensus on such scheduling techniques. The specific technical changes made in the offer are:

- deletion of the reference in the horizontal column to the reference paper, which is unnecessary given the additional commitment made by the United States;
- deletion of the description of the service subsectors and the technology through which such services may be offered;
- deletion of the reference to frame relay services in 2.C.b.; and
- deletion of subsectors "domestic/international satellite services and satellite links/capacity," "satellite earth stations," "International switching and other international gateway facilities," and "video transport services."

These deletions were made based on the following assumptions:

1. Any service listed in the sector column encompasses local, long distance and international services for public and non-public use, unless otherwise noted in the sector column.
2. Any service listed in the sector column may be provided on a facilities-basis or by resale, unless otherwise noted in the sector column.

3. Any service listed in the sector column may be provided through any means of technology (e.g., fiber optic cable, cable TV, wireless, satellites), unless a limitation is scheduled in the market access column.
4. Subsector (g)-- "private leased circuit transmission services" -- includes the sale or lease of any type of network capacity for the supply of services listed in any other subsector. This would include submarine cables, satellite space segment, satellite earth or ground stations and terrestrial wireless networks.
5. Although it is not necessary to list cellular or mobile services as a separate subsector, a number of Members have made commitments only in these subsectors. Therefore, in order to avoid extensive changes in schedules, it seems better to maintain separate entries for these subsectors.

This offer 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 is improving its offer in the belief that the improvement will assist in obtaining high quality offers from a critical mass of countries. Improved offers will be necessary if the negotiations are to conclude successfully. The United States reserves the right to supplement or modify this offer during the period from January 15 to 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:			
2.C.a. Voice services	1) None	(1) None	The United States undertakes the obligations contained in the reference paper attached hereto.
2.C.b. Packet-switched data transmission services	2) None	(2) None	
2.C.c. Circuit-switched data transmission services	3) None, other than: - Subject to spectrum availability	(3) None	
2.C.d. Telex services	- Comsat has exclusive rights to links with Intelsat and Inmarsat.		
2.C.e. Telegraph services	- Ownership of a common carrier radio license:		
2.C.f. Facsimile services	Indirect: None		
2.C.g. Private leased circuit services	Direct: May not be held by (a) foreign government,		

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.o. Other Mobile Services Analogue/Digital cellular services PCS (Personal Communications services) Paging services Mobile data services	(b) non-U.S. citizen, (c) non-U.S. corporation or (d) U.S. corporation of which more than 20% of the capital stock is owned or voted by a foreign government, non-U.S. citizen or a non-U.S. corporation. 4) Unbound except as indicated by horizontal commitments.	4) Unbound except as indicated by horizontal commitments.	

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.

2.5 Interconnection: dispute settlement

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

- (a) at any time or

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.

- (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.