

WORLD TRADE ORGANIZATION

RESTRICTED

S/NGBT/W/3/Add.29

20 September 1995

(95-2725)

Negotiating Group on Basic Telecommunications

Original: Spanish

COMMUNICATION FROM VENEZUELA

Response to Questionnaire on Basic Telecommunications

The attached communication is circulated at the request of Venezuela to the Members of the Negotiation Group on Basic Telecommunications.

Responses of the Administration of Venezuela Formulated by the
National Telecommunications Commission (CONATEL)

Response to the Questionnaire on Telecommunications

Part I

Definition and Market Structure

Definition

1. Basic telecommunications services means switched local, domestic and international fixed telephone services.

Basic telecommunications network means the switched network consisting of equipment, systems and physical infrastructure intended to provide basic telecommunications services.

2. Facilities means all of the equipment, devices and components connecting the basic telecommunications network to the internal telephone facility.

3. No.

Market structure

4. At the present time, and until the period of limited competition comes to an end (by the year 2000), CANTV (National Telephone Company of Venezuela) has the basic telecommunications monopoly.

5. CANTV now has the national basic telecommunications monopoly, i.e. 49 per cent of the shares belong to the State, 11 per cent to CANTV workers and 40 per cent to the VENWORLD Consortium.

6. Foreign equity participation of monopoly or exclusive suppliers is permitted; however, the maximum percentage share allowed has not been defined. The current level of identifiable foreign participation is part of the VENWORLD Consortium, represented by the Telefónica Internacional of Spain, GTE and AT&T.

7. Certain activities which could be considered basic telecommunications are not reserved to the monopoly, for example: facsimile, telex, data transmission, mobile, satellite services.

At the present time, AT&T, SPRINT and MCI offer services for international calls.

8. There are no such agreements.

Part II

Competition

- (i) Overview. The basic policy of the Venezuelan Administration has been to open up the sector and promote private investment. Consequently, except in basic telecommunications, where there is a period of limited competition, any foreign supplier can participate in the telecommunications business. It should also be emphasized that, nowadays, some of the owners of the basic telecommunications enterprise are foreigners,

which indicates that, when the period of limited competition comes to an end, any private supplier (foreigner or domestic) may enter the basic telecommunications business.

- (ii) Modes of supply. Commercial presence is required in Venezuela and, when the relevant concession is obtained, it is possible to operate freely throughout the country. There is no other restriction.
- (iii) Market access. Apart from obtaining the relevant licence or concession, there is no other limitation on the supplier except for restrictions on the use of the radio spectrum, which places natural limits on the number of suppliers of services (for example, cellular).
- (iv) National treatment: Venezuela gives national treatment to all telecommunications operators.
- (v) Licensing. Telecommunications legislation in Venezuela requires a licence or concession to operate any telecommunications service. The procedure for obtaining it is in two stages: (i) Registration of the enterprise, whereby the latter supplies the regulatory body (in this case, the National Telecommunications Commission, CONATEL) with legal information, financial statements and a brief description of the project, and (ii) Grant of the concession, in which the interested party provides further details. The concession agreement, setting out the licence, includes the commitments between the Administration and supplier and normally such commitments stem from the project that the supplier wishes to develop. In this regard, Venezuela requires a supplier to provide a performance bond of 1 per cent of the investment undertaken. This is done to foster the presence of operators of proven financial solvency. In some cases, where there are structural limits imposed by the radio spectrum, the Venezuelan Administration uses the competitive bidding system.

A. Subsectors: As stated earlier, only (voice) telephone services, switched, local, long-distance, domestic and international, are covered by a period of limited competition; all other services come under paragraphs (i) to (v) above. The only other restriction on new suppliers is the radio spectrum.

B. Venezuela has a kind of service called private networks, which are for small user groups and are not connected to the basic telephone system. Under the regulations these operators may transmit signals wherever they wish, domestic, international and even local, the only restriction being that they must not be connected to the public network. Other operators may use the basic monopoly only for their connections with foreign countries, until the period of limited competition comes to an end.

Resale basis

Until the period of limited competition comes to an end, no operator may resell his capacity, whether or not unused, to another operator or user.

Facilities-based

5. With a concession and/or permit, basic telecommunications suppliers, whether foreign or domestic, may construct and operate their own networks or invest in consortia to construct and operate such facilities, provided this does not effect the rights of the CANTV limited competition regime. At the present time, the rural telecommunications sector is being opened up.

Public/non-public supply

6. No.
7. Voice telephone services.
8. Except for switched basic telephone services (local, and domestic and international long-distance), the operator may or may not have available the rest of services to the public in general.
9. If the supplier wishes to be a supplier to the public in general, two obligations are required: (i) A general obligation called "equal treatment", in the sense that he cannot discriminate between his customers, and (ii) A specific obligation, in a service contract which the operator has to sign with his customers and which is binding on the parties; the specimen of the contract is approved by the regulatory authority.
10. None, except the prohibition on connecting to the basic network, during the period of limited competition.

Part III

Relationship Between Regulatory and Operational Functions

1. In Venezuela, owing to the system of public hearings, all operators in the sector are afforded an opportunity to participate directly in formulating and enforcing all rules and standards for the sector.
2. The regulatory authority in Venezuela is responsible for formulating standards and for enforcing them.
3. In Venezuela the regulatory authority alone has all the powers to regulate the sector. In the event of disputes, the parties concerned may appeal by means of arbitration, to the Ministry for the sector and, on final instance, to the Supreme Court.

Frequency allotment or assignment

4. The interested party sets out in his project the radio frequencies he requires and they are assigned to him in terms of availability. He may also request additional frequencies, if he so wishes.
5. National treatment is granted to all those requesting radio frequencies.

Numbering and identification codes

6. A direct sequential mechanism is used.
7. National treatment is granted.

Standards, type approval and equipment attachment

8. The mandatory standards are those intended to prevent damage to networks to which equipment and systems will be connected.

9. At the present time, the standardization process is in the very early stages; accordingly, the suggestion that the process of developing standards publicly, with the participation of all those concerned, is acceptable.
10. To date, approval given by advanced Administrations has been accepted. In general, any equipment (national or foreign) requires approval.
11. The only rule is that there should be no damage to the network to which the equipment is connected.
12. They may be used. The only restriction is that they cannot use voice traffic (telephony), in accordance with the conditions for the basic network, during the period of limited competition.
13. It is not obligatory; it depends on the agreements between the operator and his customers. What is obligatory is that the equipment supplied by the user must not damage the network to which it is connected.

Interconnection

14. Interconnection is compulsory, for the present operator of the basic network, with all operators, except with private networks, which by their very nature are excluded from this system.
15. This is optional for operators other than the present operator of the basic network.
16. Yes, it is authorized.
17. In Venezuela interconnection is cost-based, with the exception of cellular interconnection, which contains a cellular user subsidy component for the basic network. The subsidy will disappear in 1997. Whenever a new service requiring interconnection appears, the interested parties first try to reach an agreement, which will be valid for all operators of the service. If they reach an agreement, the terms and amounts for the interconnection must be approved by the regulatory authority and they are a matter of public knowledge. If no agreement is reached, the regulatory authorities specifies a period of time to fix the terms and amounts.

Competitive safeguards

18. The Competition Protection Law is sufficiently broad to cover and penalise all anti-competitive practices and there is a separate authority responsible for this work. In the case of telecommunications, it has been established that the present operator of the basic network may provide competitive services on two conditions: (i) through a separate subsidiary, and (ii) interconnection of the competing operators is guaranteed.
19. The only dominant operator is the present operator of the basic network, who acts under a concession, under specific rules for that operator, and specific regulations specifying any safeguards.
20. The Government's policy is not to foster monopolies in the telecommunications sector, for which reason it granted the present operator of the basic network a monopoly that will end by November 2000. Mergers and acquisitions are governed by another regulatory body established under the Competition Protection Law.
21. They only exist for the present operator of the basic network, in which an important operator and manufacturer from the United States participates, and this means that the operator of the basic

network in Venezuela must submit any purchase for more than five million dollars to a competitive bidding procedure.

Pricing-related measures

22. There are two tariff scenarios: (i) one for the present basic network operator governed by the "price caps" method, devised with the active participation of the two consortia that competed for the national telephone company before the competitive bidding procedure was started, and (ii) the one for competing service operators (including those who participate in some basic telecommunications services), governed by a maximum and minimum tariffs system, which is an attempt to make sure that the charges are the same for each service. In this system, the operator(s) must determine the minimum levels so as to reflect costs.

If the competing service operator becomes dominant, his tariff system becomes the "price caps" system.

23. All operators must publish their initial tariffs in two nation-wide newspapers one month before they enter into effect. Except for the tariffs of the present basic network operator, which require notification and approval by the telecommunications regulatory body's Ministry, the others do not need to meet this requirement.

As for the minimum tariffs of competing services, the operator must clearly carry the cost structure of those minimum tariffs. Thereafter, the operator need not submit his tariffs to the Ministry.

24. The principle of equal treatment, mentioned earlier, means that operators can offer special tariffs to user groups and other users may have access to them if they fulfil the same conditions. As to relations with other countries, tariffs are governed by agreement between operators and they must handle possible disparities. The exception is the present basic network operator, whose international tariffs are governed by the "price caps" method and are subject to re-balancing with local residential tariffs.

25. Yes, through discussions on maximum and minimum tariffs.

26. All are cost-based, taking account of the difficulties especially associated with the basic network. Other services, were non-existent and so it was very easy to determine maximum and minimum tariffs to reflect cost.

27. Yes. Whenever a new service is started the cost structure and the proposed maximum and minimum tariffs are reviewed by the regulatory body together with the interested party, in order to reach a reasonable agreement. Efforts are made to ensure that the maximum and minimum tariffs are the same for all operators of such services.

Rights of way for the construction of infrastructure

28. They are fully entitled to construct any infrastructure deemed necessary; except for construction that requires rights of way (pipelines, pillars, among other things), which must be discussed with the municipality concerned, there are no other limitations on the operator constructing infrastructure, which must, of course, meet fire, flood, worker-safety and other regulations that exist throughout the world.

29. Yes. National treatment is granted.

New telecommunications services

30. The regulatory body draws up two documents to be considered at a public hearing: (i) a strategic outline and (ii) draft regulations. With these documents, a process of several hearings is started until the regulatory body issues the final regulations. At that point, it starts to draw up the respective concession agreement. Admittedly, a service may be provided only with the concession agreement, but the interested party runs the risk that the regulations will be different and the agreement will have to be renegotiated.

31. New services are started on the initiative of the regulatory body or an interested party. If the nature and other parameters of the service are not specified in the above-mentioned documents, these are worked out in the process of the public hearings.