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NEWS

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COMMISSION ACTION

COMMISSION INITIATES PROCEEDING TO REVIEW RULES AND POLICIES ON PARTICIPATION IN THE U.S. TELECOMMUNICATIONS MARKET
(IB Docket No. 97-142)

The Commission today released a Notice of Proposed Rulemaking (Notice) that proposes a policy t liberalize entry into the U.S. telecommunications market for most foreign-affiliated carriers. The N rules that the Commission believes would be more appropriate in the liberalized competitive enviro exist when the recent World Trade Organization (WTO) agreement on basic telecommunications se effect on January 1, 1998. The WTO agreement promises to open 95 percent of the global telecomm market to U.S. companies. The Commission proposes to change its current rules that apply the "effe competitive opportunities" (ECO) test for companies from WTO countries. The Notice also propos retain safeguards to prevent foreign carriers with market power from distorting competition in the U addition, the Commission retains the authority to deny or condition such foreign carrier entry if req public interest.

The WTO agreement was concluded on February 15, 1997 when 69 countries including the United virtually all of its major trading partners committed to open their markets to competition from forei addition, 65 of these countries, including the United States, agreed to a far reaching document know Reference Paper on Pro-Competitive Regulatory Principles, which contains a binding, enforceable competition rules. These rules include guarantees of fair and economical interconnection between c carriers; prohibitions on anticompetititve conduct; and independent regulation of the telecommunic These pro-competitive rules incorporate principles that are at the heart of the Telecommunications an effective dispute resolution mechanism to allow full enforcement by WTO members.

Implementation of the WTO basic telecommunications agreement will fundamentally alter the com landscape of the telecommunications industry. In 1995, when virtually all major telecommunication

outside the United States were closed, the FCC adopted the ECO test, and related rules, to evaluate from foreign-affiliated carriers. In adopting the ECO test, the Commission stated that its goals were competition in the U.S. market; to prevent anticompetitive conduct; and to encourage foreign gover their markets. The Commission also stated that it would revisit those rules if a WTO agreement wer Commission now proposes to amend its rules because the commitments made by the countries part basic telecommunications agreement substantially achieve the goals of the ECO test.

The Commission seeks comment on the following tentative conclusions in the Notice:

It is no longer necessary for the Commission to undertake the detailed ECO analysis considering wh exist legal and practical barriers to entry in the foreign market in determining whether to grant inter Section 214 applications filed by carriers from WTO member countries. The Commission tentativel that competition in the U.S. market will be best served by eliminating the burdensome ECO analysi granting those applications on a streamlined basis.

Indirect foreign ownership of common carrier radio licensees up to 100 percent should be presumed consistent with the public interest when the foreign investor is from a WTO member country, and a not necessary.

The Commission tentatively concludes that it is no longer necessary to apply an equivalency analys for authorizing carriers to provide switched services over resold or facilities-based private lines betw States and WTO member countries.

The Commission proposes not to apply an ECO test for cable landing licenses for submarine cables United States and other WTO member countries.

In addition, although the Commission assumes that applications from carriers from WTO member c serve the public interest, it retains the authority to deny or condition such entry if this is required by interest.

In contrast, the Commission proposes to retain the existing ECO test for Section 214, Title III, and license applications from entities from countries that are not members of the WTO. The Commissio believe that its public interest objectives would be achieved by eliminating ECO for carriers from th at this time.

The Commission also proposes not use to an ECO test for purposes of determining whether to perm to enter into alternative settlement arrangements with carriers from WTO member countries under i Order. Instead, the Commission would permit most such arrangements absent a showing that marke the country in question are not sufficiently competitive to prevent a carrier with market power in th discriminating against U.S. carriers.

The Commission proposes several modifications to its safeguards that apply to foreign-affiliated ca as dominant on the affiliated route. The proposed revisions are designed to prevent anticompetitive being no more burdensome than necessary. The Commission proposes the following changes to its these foreign-affiliated carriers:

Modification of the current dominant carrier safeguards, which would apply to all carriers regulated due to an affiliation with a foreign carrier that has market power, to better tailor them to address co concerns, including reduced tariff notification and prior authorization requirements.

Adoption of supplemental safeguards that would apply where the dominant U.S. carrier's foreign af subject to competition from multiple international facilities-based competitors. The proposals inclu exclusive arrangements with the affiliated foreign carrier for the joint marketing of basic telecomm services, the steering of customers by the foreign carrier to the U.S. carrier, or the use of foreign ma customer information. The Commission also proposes to require prior approval to add circuits on a route and to require carriers to file quarterly circuit status reports.

The Notice asks for comment on whether the Commission should require some level of structural s between a U.S. carrier and a dominant foreign affiliate, and asks for comment on what that level of should be.

The Notice references the competitive safeguards proposed in the Commission's December 1996 B Notice, and does not suggest any modifications to the proposed benchmark settlement rates.

Action by the Commission June 4, 1997, by Notice of Proposed Rulemaking (FCC 97- 195). Comm

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