



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See *MCI v. FCC*, 515 F.2d 385 (D.C. Circ 1974).

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FCC INITIATES INQUIRY INTO SCOPE AND IMPACT OF ANTICOMPETITIVE BEHAVIOR ON U.S. INTERNATIONAL CALLING MARKETS AND CONSUMERS AND RESOLVES REMAINING MATTERS ON THE U.S.-PHILIPPINES ROUTE

Washington, D.C. – The Federal Communications Commission (FCC) today took two actions to protect U.S. consumers from anticompetitive conduct in international telecommunications services markets and to ensure that they enjoy competitive prices as they make international calls.

First, the FCC adopted a *Notice of Inquiry* (NOI) that seeks to build a record that would enable the Commission to better protect U.S. consumers from the effects of anticompetitive or “whipsawing” conduct by foreign carriers. “Whipsawing” generally refers to a broad range of anticompetitive behaviors in which foreign carriers or a group of foreign carriers exploit their market power in negotiating settlement rates with competitive U.S. telecommunication carriers.

The FCC has recently witnessed a number of instances of “whipsawing” in the form of circuit blockages or disruptions. The Commission is concerned that, if continued, such actions will erode the benefits the Commission sought to achieve by reforming its long-standing International Settlements Policy (ISP), which governs the manner in which U.S. carriers negotiate with foreign carriers for the exchange of international traffic, and which was established to prevent foreign carriers with market power from “whipsawing” competing U.S. carriers. In the 2004 *ISP Reform Order*, the Commission removed the ISP from U.S.-international routes for which U.S. carriers had negotiated settlement rates at or below benchmark levels set by the Commission in its 1997 *Benchmarks Order* in order to give U.S. carriers greater flexibility to negotiate market-based arrangements with foreign carriers.

With the NOI, the Commission further explores the nature of current “whipsawing” tactics, the Commission’s role in addressing those tactics, and their effect on U.S. consumers. Specifically, the NOI seeks comment on the following issues:

- What constitutes a circuit disruption or blockage that would trigger possible Commission action;
- What should be the length of the pleading cycle associated with any action the Commission may take in response to reports of anticompetitive behavior;
- Whether to propose procedures for taking interim measures when U.S. carriers notify the Commission that foreign carriers have threatened to disrupt circuits;

- Whether it is feasible to require all carriers to stop payments to foreign carriers immediately pending resolution of petitions or complaints of anticompetitive behavior;
- The allegations that U.S. carriers are failing to reflect the benefits of lower settlement rates to U.S. consumers and,
- What is the effect of anticompetitive or “whipsawing” conduct on U.S. consumers?

Second, the FCC resolved separately two remaining matters arising from previous Commission actions with regard to anticompetitive conduct on the U.S.-Philippines route. In particular, the FCC denied reconsideration of and affirmed its June 2004 order that upheld an International Bureau finding that six Philippine carriers had disrupted the U.S.-Philippine networks of two U.S. carriers in retaliation for their refusal to agree to the Philippine carriers’ demand for rate increases, and that, by this action, the Philippine carriers had “whipsawed” the U.S. carriers, to the detriment of U.S. consumers. In the same decision, the Commission found that the U.S.-Philippines route was benchmark-compliant and that there was insufficient evidence of remaining competitive concerns raised with regard to that route. Accordingly, the FCC lifted the ISP from the U.S.-Philippines route pursuant to the policies adopted in its 2004 *ISP Reform Order*.

All interested parties are invited to respond to the questions and requests for information contained in the *Notice of Inquiry*.

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