Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
	)	
Modifying the Commission's Process to Avert	)	
Harm to U.S. Competition and U.S. Customers	)	IB Docket No. 05-254
Caused by Anticompetitive Conduct	)	
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	)	
	)	
	)	

NOTICE OF INQUIRY

Adopted: August 5, 2005 **Released: August 15, 2005**

Comment Date: (30 days after publication in the Federal Register)
Reply Comment Date: (50 days after publication in the Federal Register)

By the Commission: Commissioner Copps issuing a statement.

I. INTRODUCTION

1. In this Notice of Inquiry (NOI), we seek comment on ways to improve the process available to the Commission to protect U.S. consumers from the effects of anticompetitive or "whipsawing" conduct by foreign carriers.[1] While competitive markets generally constrain such behavior, we have recognized that anticompetitive conduct that disrupts normal commercial negotiations for the purpose of forcing U.S. carriers to accept above-cost settlement rate increases[2] harms the public interest.[3] We are particularly concerned about instances in which foreign carriers used circuit disruptions or threats of circuit disruptions to force U.S. carriers into settlement rate increases. We seek comment in this NOI on alternative approaches we may take to avert circuit disruptions or blockages and on ways to streamline our procedures in order to respond more effectively to such anticompetitive or "whipsawing" conduct. The record developed from this NOI should help us determine whether to propose changes to current Commission policy and procedure to ensure that U.S. customers enjoy competitive prices as they make calls to international destinations.

II. BACKGROUND

2. In 2004, the Commission adopted the *ISP Reform Order* by which it reformed its U.S.-international regulatory policies to reflect more appropriately changing market realities, namely, increased competition on many U.S.-international routes accompanied by lower settlement rates and

[1] *International Settlement Policy Reform; International Settlement Rates,* IB Docket Nos. 02-324, 96-261, First Report and Order, 19 FCC Rcd 5709, 5728-34, ¶¶ 39-52 (2004) (*ISP Reform Order*).

[2] *Id*. at 5730-31, ¶ 44.

[3] *Id*. at 5731, ¶ 45 ("We find, in particular, that blockage or disruption of U.S. carrier networks by foreign carriers directly harms the public interest, leads to decreases in call quality or completion and to potential increases in calling prices.").

calling prices for U.S. customers.[4] In particular, the Commission exempted many international routes from the International Settlements Policy (ISP) in order to give U.S. carriers greater flexibility to negotiate market-based arrangements on U.S.-international routes.[5] Notwithstanding the Commission's decision to permit greater flexibility in commercial negotiations on certain routes, the Commission concluded that certain safeguards are necessary to allow it to respond to anticompetitive or "whipsawing" conduct when occurring on individual U.S.-international routes.[6] Accordingly, the Commission adopted certain procedures in the *ISP Reform Order* that allow the Commission to address specific allegations of such conduct by foreign carriers.[7]

3. The term "whipsawing" generally refers to a broad range of anticompetitive behaviors by foreign carriers that possess market power, in which the foreign carrier or a group of foreign carriers exploit that market power in negotiating settlement rates with competitive U.S. telecommunications carriers.[8] The use of the threat of or actual circuit disruption is a form of "whipsawing," a tactic that is increasingly used by some foreign carriers to obtain concessions from U.S. carriers. Foreign carriers may use this tactic against one or more U.S. carriers to compel them to agree to settlement rate increases. Once one or more U.S. carriers agree to the demanded rate increases, other U.S. carriers may be forced to follow suit in order to avoid losing traffic and/or business opportunities to those carriers that agreed to the rate increases.[9]

4. Two years ago, the Commission acted to protect U.S. customers when certain foreign carriers used circuit disruptions in an attempt to force higher settlement rates.[10] Since then, U.S. carriers

[4] *See ISP Reform Order*, 19 FCC Rcd 5709.

[5] The ISP governs the manner in which U.S. carriers negotiate with foreign carriers for the exchange of international traffic. The ISP requires that: (1) all U.S. carriers must be offered the same effective accounting rate and same effective date for the rate, (2) all U.S. carriers are entitled to a proportionate share of U.S.-inbound, or return traffic based upon their proportion of U.S.-outbound traffic, and (3) settlement rates for U.S. inbound and outbound traffic are symmetrical. In the 2004 *ISP Reform Order*, the Commission eliminated its International Simple Resale policy and removed the ISP from benchmark-compliant routes. *ISP Reform Order,* 19 FCC Rcd at 5711, ¶ 2; 47 C.F.R. § 64.1002 (2004).

[6] *ISP Reform Order*, 19 FCC Rcd at 5729, ¶ 40; 47 C.F.R. § 64.1002(d).

[7] *See id*. at 5730-32, ¶¶ 43-52.

[8] *AT&T Corp. Emergency Petition for Settlements Stop Payment Order and Request for Immediate Interim Relief and Petition of WorldCom, Inc. for Prevention of "Whipsawing" On the U.S.-Philippines Route*, IB Docket No. 03-38, Order, 18 FCC Rcd 3519 (2003) (*2003 Bureau Order*). *See also AT&T Corp. Proposed Extension of Accounting Rate Agreement for Switched Voice Service with Argentina,* 11 FCC Rcd 18014, Order on Review, 14 FCC Rcd 8306 (1999) (*Argentina Order); Sprint Communications Company, L.P. Request for Modification of the International Settlements Policy to Change the Accounting Rate for Switched Voice Service with Mexico,* 13 FCC Rcd 24998, 25002, ¶ 9 (*Mexico Order*); *Cable & Wireless P.L.C.*, 166 F.3d 1224, 1227 (D.C. Cir. 1999); *see, e.g., Atlantic Tele-Network, Inc. Application for Authority to Acquire and Operate Facilities for Direct Service Between the U.S. and Guyana*, Order on Review, 8 FCC Rcd 4776 (1993).

[9] The ISP has historically attempted to balance any asymmetry in market power by creating a uniform bargaining position to counter a "divide-and-conquer approach." This uniform bargaining position for U.S. carriers, in turn, creates a competitive playing field among providers. *See Implementation of the Uniform Settlements Policy for Parallel International Communications Routes,* CC Docket No. 85-204, Report and Order, 51 Fed. Reg. 4736, ¶¶ 3-6 (Feb. 7, 1986).

[10] In 2003, certain Philippines carriers disrupted the circuits on the U.S.-Philippines route of those carriers that did not agree to the demanded settlement rate increases. In response to petitions filed by U.S. carriers alleging anticompetitive conduct on the part of the Philippine carriers and in order to promote the public interest, the International Bureau, among other things, directed all U.S. carriers that provide facilities-based services to suspend payments to the Philippine carriers for terminating services until those carriers restored U.S. carriers' circuits. *AT&T Corp. Emergency Petition for Settlements Stop Payment Order and Request for Immediate Interim Relief and*

(continued....)

have reported that certain foreign carriers, and at least in some instances with the implicit support of their governments, have demanded rate increases, engaged in "whipsaw-type" behavior, or set "rate floors" on a number of U.S.-international routes where there is little or no competition on the foreign end.[11] Recently, certain foreign carriers of Ecuador, Jamaica and Nicaragua have blocked international phone circuits, in some instances with the alleged support and endorsement of their respective governments and regulators, as a negotiating tactic to obtain higher interconnection rates from U.S. carriers.[12] According to AT&T, U.S.-to-Ecuador mobile terminating traffic has been disrupted since March 2005 because U.S. carriers would not agree to mobile termination rate increases.[13] Nicaraguan carriers began blocking circuits in early December 2004 and maintained the blockage for over three months until the U.S. carriers agreed to pay higher rates. Jamaican carriers began blocking circuits in June 2005 and maintained such blockage until U.S. carriers acceded to the demands of Jamaican carriers.

5. We are concerned that circuit disruptions, such as the ones on the U.S.-Ecuador, U.S.-Jamaica, and U.S.-Nicaragua routes, undermine the benefits that we sought to achieve by reforming our policies. Our expectations were that giving U.S. carriers greater flexibility in negotiating dissimilar settlement arrangements would benefit U.S. consumers. This cannot happen when foreign carriers disrupt commercial negotiations with threats of or actual circuit disruptions.[14] We are now concerned that the

(...continued from previous page)
Petition of WorldCom, Inc. for Prevention of "Whipsawing" On the U.S.-Philippines Route, IB Docket No. 03-38, Order on Review, 19 FCC Rcd 9993 (2004) (*Order on Review*); *AT&T Corp. Emergency Petition for Settlements Stop Payment Order and Request for Immediate Interim Relief and Petition of WorldCom, Inc. for Prevention of "Whipsawing" On the U.S.-Philippines Route*, IB Docket No. 03-38, Order, 18 FCC Rcd 3519 (2003) (*2003 Bureau Order*).

[11] *See, e.g.,* Letter from Sasha Field, Director, International Affairs, Law and Public Policy, MCI Corporation, David Nall, General Attorney, Sprint Corporation, and Douglas Schoenberger, Director, International Government Affairs, AT&T Corporation, to Donald Abelson, Chief, International Bureau, FCC (Feb. 4, 2005) (Nicaragua Letter); Letter to Mary Hoberman, Director, International Public Policy, AT&T Wireless, from Phillip Paulwell, Minister, Ministry of Commerce, Science and Technology, Jamaica at 4 (May 24, 2005) (Jamaica Letter) (noting that "a universal service charge was imposed on all carriers of international calls to Jamaica."). In the *ISP Reform Order*, U.S. carriers explained that certain foreign carriers, and at least on some instances with the implicit support of their governments, have demanded rate increases, "whipsaw-type" behavior, or "rate floors" on a number of U.S.-international routes where there is little or no competition on the foreign end. AT&T Comments at 2-3, 19 and Reply at 4, 9, 11-12; MCI Comments at 4, 9-11; Sprint Comments at 5-6; CompTel Reply at 4.

[12] *See, e.g.,* Letter from James J.R. Talbot, Senior Attorney, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission at 7 (filed Jun. 24, 2005) (Ecuador Letter) (noting that "U.S. to Ecuador mobile terminating traffic has been disrupted since March 2005 because AT&T and other carriers would not agree to a non-cost justified mobile termination rate increase in excess of 100% from the existing rate agreement."); Jamaica Letter at 4 (warning that "it is likely that [Jamaican] carriers who fail to secure rate changes before June 1, 2005, will block the international circuits in order to ensure that their licenses are not placed at risk."); Statement by the Minister of Commerce, Science and Technology Hon. Phillip Paulwell to News Conference on the Establishment of Universal Service Fund (May 17, 2005) at http://www.mct.gov.jm/phillip%20press%20conference %20ufs.pdf; Nicaragua Letter; Letter from Sasha Field, Director, International Affairs, Law and Public Policy, MCI Corporation, David Nall, General Attorney, Sprint Corporation, and Douglas Schoenberger, Director, International Government Affairs, AT&T Corporation, to Donald Abelson, Chief, International Bureau, FCC (May 25, 2005).

[13] Ecuador Letter at 7.

[14] As we stated in the *ISP Reform Order*, "[w]e find, in particular, that blockage or disruption of U.S. carrier networks by foreign carriers directly harms the public interest, leads to decreases in call quality or completion and to potential increases in calling prices. Resorting to such retaliatory abuse of market power against U.S. carriers, as opposed to resolving disagreements through commercial negotiations is unlikely ever appropriate or justified in the public interest and does not benefit the provision of international services to customers in the United States or abroad." *ISP Reform Order,* 19 FCC Rcd at 5731, ¶ 45.

procedures we adopted in the *ISP Reform Order* do not permit us to act quickly in order to avert blockages and disruptions on U.S.-international circuits. Accordingly, in the section below, we seek comment on ways to improve our existing procedures in order to better respond to threats of circuit disruptions and to petitions and complaints submitted by U.S. carriers that allege anticompetitive or "whipsawing" behavior on the part of foreign carriers.

III. DISCUSSION

A. Current policy and procedures

6. The Commission reformed its policies in 2004, by, among things, removing the ISP from benchmark-compliant routes in order to give U.S. carriers greater flexibility to negotiate commercial arrangements with foreign carriers. By encouraging market-based arrangements, the Commission sought to promote greater competition in the U.S.-international market and ensure more favorable calling rates for U.S. customers.[15] As the Commission stated in the *ISP Reform Order*, it considers threats of or actual circuit disruptions anticompetitive. The Commission explained that increasing settlement rates above benchmarks, establishing rate floors, even if below benchmarks, that are above previously negotiated rates, or threatening or carrying out circuit disruptions in order to achieve rate increases or changes to the terms and conditions of termination agreements are indicia of potential anticompetitive conduct.[16] Additionally, there is a rebuttable presumption of harm to the public interest if U.S. carriers demonstrate in their petitions that they have suffered network disruptions by foreign carriers with market power in conjunction with their allegations of anticompetitive behavior or "whipsawing."[17]

7. Pursuant to the *ISP Reform Order,* the Commission responds to anticompetitive or "whipsawing" behavior in one of two ways: (1) on its own motion if it finds evidence of market failure, or (2) in response to complaints or petitions filed by U.S. carriers or other affected parties alleging anticompetitive behavior on a U.S.-international route that will harm U.S. customers.[18] Complaints and petitions are considered on a case-by-case basis following issuance of a public notice. The Commission seeks comment on these complaints or petitions, allowing ten days for the submission of comments and seven days for replies.[19] If U.S. carriers or other parties can demonstrate harm to U.S. competition or U.S. customers, the Commission may find that the actions of the foreign carrier with market power (or a group of foreign carriers that collectively have market power) constitute "whipsawing."[20] Upon a finding of "whipsawing," the Commission may direct U.S. carriers to renegotiate, withhold payment to foreign carriers, or restrict U.S. carriers from paying a specific rate. The Commission may also reinstate the requirements of the ISP on a route from which it has been lifted. Our rules also provide that in the event significant, immediate harm to the public interest is likely to occur that cannot be addressed through *post facto* remedies, the Commission may impose temporary requirements on U.S. carriers without prejudice

[15] *Id*. at 5711, ¶ 2.

[16] *ISP Reform Order*, 19 FCC Rcd at 5730-31, ¶ 44.

[17] *Id*. at 5731, ¶ 45.

[18] 47 C.F.R. § 64.1002(d); *ISP Reform Order*, 19 FCC Rcd at 5732-5733, ¶¶ 39-52. Under our rules, a petitioning carrier must file its commercial agreements with its petition in order to give all interested parties, including foreign carriers or governments, an opportunity to comment. *Id.* at 5732-33, ¶ 50.

[19] The Commission will also consult with relevant foreign regulators in coordination with appropriate U.S. Government agencies for information and assistance in resolving the dispute. *ISP Reform Order,* 19 FCC Rcd at 5733 n.126.

[20] *See Order on Review*, 19 FCC Rcd 9993; *2003 Bureau Order*, 18 FCC Rcd 3519.

to its findings on such petitions.[21]

B. Improving our current procedures

8. We seek comment on ways to improve our ability to respond to threats of circuit disruptions or blockages on U.S.-international routes. As a preliminary matter, we seek comment on how we should define circuit disruptions or blockages for purposes of possible Commission action. Should we consider disruptions limited to certain portions of the network, such as mobile circuits, to be a form circuit disruption or blockage? Are service degradations also a form of circuit disruption or blockage? We seek comment on other types of disruptions and blockages that may warrant Commission interest and action, and whether there are any instances in which circuit blockages are appropriate.

9. We also solicit feedback on the length of the pleading cycle associated with an action the Commission might take under these circumstances. Under our current rules, parties are afforded ten days to submit comments and seven days to submit replies.[22] We seek comment on whether this period is too protracted given the exigent circumstances created by circuit disruptions or blockages. In particular, we are concerned that, by the time the comment cycle has expired, a number of U.S. carriers would likely have acceded to demands for rate increases as a result of being "whipsawed" by foreign carriers. We recognize that the commercial realities of the market create an incentive for carriers to accept the terms and conditions imposed by foreign carriers that disrupt circuits. Generally, once one U.S. carrier accepts the terms and conditions of the foreign carrier, other U.S. carriers are likely to follow lest they lose traffic to other U.S. providers. This, in turn, diminishes the bargaining power of other carriers. Accordingly, we ask whether we should shorten our notice and comment cycle, and if so, by how much. In its comments to the *ISP Reform Order*, AT&T suggested, among other things, that we provide five days for comments and two days for replies. Although we declined to adopt AT&T's suggestion at that time, we seek comment on whether an abbreviated comment cycle would be appropriate in these circumstances to balance the opportunity for public comment with the need to act swiftly in order to avert harm to U.S. competition and U.S. customers.[23]

10. Additionally, we seek comment on whether to propose procedures for taking interim measures upon notice by U.S. carriers that foreign carriers have threatened them with circuit disruptions. Under our procedures, in the event significant, immediate harm to the public interest is likely to occur that cannot be addressed through *post facto* remedies, the Commission may impose temporary requirements on U.S. carriers without prejudice to its findings on U.S. carriers' petitions.[24] The Commission, however, did not fully discuss in the *ISP Reform Order* all of the circumstances under which interim action might be taken when it adopted this rule. We seek comment on the circumstances and process by which the Commission would take action to prevent circuit disruption from being used by foreign carriers as a tactic in commercial negotiations. What constitutes a credible threat of circuit disruption or blockage? Are verbal notifications of threats of circuit disruptions sufficient to trigger Commission intervention, or should we require affected U.S. carriers to file a written notification with the Commission? Do we permit carriers to file such notifications with requests for confidentiality, and, if so, under what circumstances? Upon such notifications, how should we proceed to assess the immediacy of such threats? For example,

[21] 47 C.F.R. § 64.1002(d).

[22] *Id*.

[23] *See ISP Reform Order,* 19 FCC Rcd at 5733, n.126 (explaining that the comment cycle should provide an opportunity for the Commission and/or other agencies of the U.S. government to contact the relevant foreign administration for information and assistance).

[24] 47 C.F.R. § 64.1002(d). We note that in addition to imposing interim relief, the Commission, along with other U.S. agencies, may express concerns in meetings and correspondence that certain behavior prevents more cost-based, market-driven rates, as advocated by the ITU and the Commission.

should we issue a public notice based on carriers' notifications? How should we coordinate any action that we may take with other U.S. government agencies responsible for international actions and telecommunications policy?[25] How would a process by which we consider interim relief take into account the ability of foreign governments to consult officials within the FCC and/or the Executive Branch agencies? What kind of showing should be required of carriers to demonstrate that the public interest would be served by Commission intervention, and what is the appropriate form of relief? Should we automatically impose interim conditions on U.S. carriers?

11. In particular, we seek comment on the feasibility of requiring all carriers to stop increased payments to foreign carriers immediately pending resolution of petitions or complaints alleging anticompetitive behavior.[26] In essence, should we require carriers to maintain the status quo? Should we forbid carriers from negotiating a different rate until the threat to block circuits has been removed? Or should we immediately impose the ISP or parts thereof on the U.S.-international route in which circuits are being blocked or disrupted by foreign carriers?[27] Are stop payment orders limited to particular durations warranted in some circumstances? What actions, if any, should we take if we find that anticompetitive behavior continues despite our grant of interim relief? We seek comment on whether we should require carriers to provide periodic status updates of developments on a particular route where circuits have been disrupted by foreign carriers.[28]

12. We note that some foreign government officials, in discussing their desire for settlement rate increases, allege that U.S. carriers fail to pass the benefits of lower settlement rates to U.S. customers, and, as a result, maintain unnecessarily high international calling rates to some countries. By way of background, under the *Benchmarks Order*,[29] the Commission sought to constrain the market power of foreign incumbents in order to reduce excessive settlement rates and foster more cost-based pricing in foreign markets in which effective competition was not sufficiently developed. By enacting rules to make settlement rates more cost-based, the Commission sought to prevent competitive distortions in the U.S.-international market and harm to U.S. customers caused by higher costs to U.S. carriers.[30] We request comments on allegations that U.S. carriers are failing to reflect the benefits of lower settlement rates in their calling rates to U.S. customers.

13. Some foreign officials also state that declining settlement rates have not stimulated

[25] Other appropriate multilateral fora include the ITU, CITEL, and APEC.

[26] We recognize that this action appears consistent with the ISP's goal of creating a unified bargaining position for all carriers and appears to further the public interest. *See India Order,* 13 FCC Rcd 17168; *Mexico Order,* 13 FCC Rcd at 25002, ¶ 9.

[27] Under our existing ISP policies, upon a finding of anticompetitive behavior, the Commission may enforce the restrictions of the ISP on all U.S. facilities-based carriers serving the relevant route in order to ensure nondiscrimination among U.S. carriers and the filing of accounting rates at the Commission to monitor compliance with the ISP. *See ISP Reform Order,* 19 FCC Rcd at 5731-32, ¶ 47.

[28] In the case of the Philippines, the Bureau required AT&T to submit a status report within 15 days of the release of the Order to ascertain whether the situation remained unresolved and presented continuing harm to the public interest. The Bureau also requested any other authorized U.S. carriers that may have experienced circuit loss on the U.S.-Philippines routes to submit such reports. *2003 Bureau Order*, 18 FCC Rcd at 3536, ¶ 20.

[29] International Settlement Rates, IB Docket No. 96-261, *Report and Order,*12 FCC Rcd 19806 (1997) (*Benchmarks Order); see also Report and Order on Reconsideration and Order Lifting Stay,* 14 FCC Rcd 9256 (1999) (*Benchmarks Reconsideration Order*), *aff'd sub nom, Cable and Wireless P.L.C. v. FCC*, 166 F.3d 1224 (D.C. Cir. 1999).

[30] *Benchmarks Order*, 12 FCC Rcd at 19807, ¶ 2.

demand sufficient to support network expansion and universal service obligations.[31] As a result, they believe that resorting to higher settlement rates is a legitimate domestic objective under these circumstances. The Commission previously stated in the *Benchmarks Order*, however, that universal service obligations must be administered in a transparent, non-discriminatory and competitively neutral manner, and that hidden subsidies in settlement rates and subsidies borne disproportionately by one service, in the case of settlement rates, by consumers from net payer countries, are not consistent with these principles and cannot be sustained in a competitive global market.[32] We request comment on the use of international settlement rates to fund universal service needs in foreign countries, and whether such use is consistent with the principles noted above. Additionally, as U.S. ratepayers already pay indirectly into the U.S. universal service fund, we request comment on whether it is appropriate that they also be required to subsidize universal service in other countries.[33] We note that under the Commission's rules, only carriers that provide interstate telecommunications services within the United States are required to contribute to the U.S. universal service fund.[34] We also seek comment on whether it is appropriate to permit U.S. carriers to charge foreign carriers an amount equal to that which they are being charged.[35]

14. Finally, we seek additional information on the effect of anticompetitive or "whipsawing" conduct on U.S. consumers. Are U.S. consumers being harmed by those practices? We request information on the number and type of consumer complaints that U.S. carriers have received concerning the effect of such conduct on the part of foreign carriers.

IV. CONCLUSION

15. By this NOI, we continue our efforts to protect U.S. customers from harms resulting from anticompetitive conduct and to promote the ability of U.S. customers to enjoy competitive prices as the make calls to international destinations. Accordingly, we seek comment on whether we need to improve our ability to respond to threats of circuit disruption on U.S.-international routes and, if so, on ways we can improve the existing process by which we address petitions and complaints submitted by U.S. carriers and other parties. We invite all interested parties to respond to the questions and requests for information contained in this NOI.

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[31] *See, e.g.,* Jamaica Letter at 2 (noting that "[t]he harsh reality is that Jamaica has not reaped the rewards of liberalization and the move to cost oriented prices, in one significant regard, namely[:] the declining settlements failed to stimulate an increase in demand sufficient to provide domestic carriers with the resources to fund reasonable network expansion, and/or universal service obligations.").

[32] *Benchmarks Order*, 12 FCC Rcd at 19877-78, ¶ 148.

[33] *Id*. ("Universal service in the U.S. market is based on and uses end user telecommunications revenues in the United States, not settlement revenues paid by foreign carriers.").

[34] Section 254(d) of the Act requires that interstate telecommunications carriers "contribute ... to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." 47 U.S.C. § 254(d). The Commission has implemented section 254(d) in section 54.706 of its rules, which states, in relevant part, "every telecommunications carrier that provides interstate telecommunications services ... shall contribute to the federal universal service support mechanisms on the basis of its interstate and international end-user telecommunications revenues." 47 C.F.R. § 54.706. Under the Commission's rules, contributors whose interstate revenues comprise less than 12% of their combined interstate and international revenues would only contribute based on their interstate revenues. 47 C.F.R. § 54.706(c). *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752, 3806-07, ¶¶ 125-28 (2002). The Commission has also set a *de minimis* threshold so that carriers are not required to contribute if their contributions for that year would be less than $10,000. *See* 47 C.F.R. § 54.708.

[35] For example, under our proposal, U.S. carriers would be able to impose charges on calls from Jamaica in an amount commensurate with the charges imposed by their foreign fixed correspondents.

V. PROCEDURAL ISSUES

A. Filing of Comments and Reply Comments

16. We invite comment on the issues and questions set forth above. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before 30 days after publication in the Federal Register publication, and reply comments on or before 50 days after publication in the Federal Register.[36] Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[37]

17. Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/cgb/ecfs/. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an email to ecfs@fcc.gov, and should include the following words in the body of the message, "get form". A sample form and directions will be sent in reply.

18. Parties that choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. (We note that we continue to experience delays in receiving U.S. Postal Service mail.) The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties also should send four (4) paper copies of their filings to James Ball, Claudia Fox, and Francis Gutierrez, International Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. For additional information on this proceeding, contact James Ball, james.ball@fcc.gov, Claudia Fox, claudia.fox@fcc.gov or Francis Gutierrez, francis.gutierrez@fcc.gov, of the International Bureau, Policy Division, (202) 418-1460.

B. *Ex Parte* Presentations

19. This is an exempt proceeding in which *ex parte* presentations are permitted (except during the Sunshine Agenda period) and need not be disclosed.[38]

20. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain

[36] Commenters that wish confidential treatment of their submissions should request that their submission, or specific part thereof, be withheld from public inspection. 47 C.F.R. § 0.459 (2003).

[37] *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

[38] 47 C.F.R. § 1.1204(b)(1) (2003).

any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

VI. ORDERING CLAUSES

21. IT IS ORDERED that, pursuant to the authority contained in 47 U.S.C. Sections 151, 4(i), 201-205, 208, 211, 303(r), 403 this *Notice of Inquiry* is ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

RE: Modifying the Commission's Process to Avert Harm to U.S. Competition and U.S. Customers Caused by Anticompetitive Conduct (NOI).

Circuit disruptions are an unacceptable tactic in negotiations over settlement rate increases. They harm consumers, discourage competition and undermine international cooperation. It is cause for serious concern that the number of circuit disruption cases appears to be on the rise. So it is both necessary and proper that we initiate this NOI to explore ways for better protecting U.S. consumers when circuit disruptions, or the threat thereof, occur. The International Bureau serves the public interest and encourages more acceptable international practices with the Notice, and I commend IB for its good and fast work on this item and look forward to determining quickly what further action is necessary.