VIA E-MAIL

January 13, 2006

Gloria Blue
Executive Secretary
Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
1724 F Street, NW
Washington, D.C. 20508
FR0502@USTR.EOP.GOV

Re: *Vodafone Section 1377 Reply Comments*

By this filing, Vodafone Group Services Ltd ('Vodafone') replies to comments filed in response to the U.S. Trade Representative's ('USTR') request for comment in its 2006 'Section 1377' proceeding.[1]

Some parties, particularly AT&T and Comptel, have again submitted comments to the USTR reiterating arguments made in previous Section 1377 proceedings concerning alleged 'excessive' foreign mobile termination rates.[2] This issue remains the subject of a pending Notice of Inquiry at the FCC,[3] to which Vodafone has submitted extensive comments, and has been the subject of previous Section 1377 proceedings in which Vodafone has participated.[4] Vodafone thus limits its reply to a number of discrete observations.

Vodafone has consistently noted to USTR and the FCC that there is no question of discrimination against U.S. operators or callers on the part of foreign mobile operators.[5] No claim

---

[1] Office of the United States Trade Representative, *Request for Comments Concerning Compliance with Telecommunications Trade Agreements*, 70 Fed. Reg. 69621 (Nov. 16, 2005), correction 70 Fed. Reg. 72686 (Dec. 6, 2005).
[2] *See* AT&T Comments at 2-4; Comptel Comments at 2-3. NII Holdings, Inc. addresses foreign mobile termination rates in the Peruvian market, where Vodafone does not operate. *See* NII Holding, Inc. Comments at 2-5.
[3] *In the Matter of The Effect of Foreign Mobile Termination Rates On U.S. Customers*, Notice of Inquiry, IB Docket No. 04-398, FCC 04-247 (rel. Oct. 26, 2004) ('FCC NOI').
[4] *See* Vodafone Comments in FCC IB Docket No. 04-398, filed Jan. 14, 2005, and Reply Comments filed Feb. 14, 2005; Vodafone Comments and Reply Comments in FCC IB Docket No. 02-324; Vodafone Reply Comments in 2005 Section 1377 Proceeding, filed Jan. 17, 2005.
[5] *See supra* note 4.

is made in this proceeding to dispute this. The interests of foreign operators, regulators and consumers are thus aligned with those of the U.S. operators and consumers, and it is therefore questionable whether foreign mobile termination rates raise a genuine U.S.-specific trade-related issue in the first instance.

AT&T asserts that the number of countries in which it pays mobile surcharges has increased "from approximately 30 countries in 2001 to approximately 150 countries today."[6] This is not in itself evidence of any economic or trade problem, but simply indicates that US callers are benefiting from the growth of mobile services overseas and that prices are being de-averaged by separating the rates for calls which terminate on foreign mobile networks from those which terminate on foreign fixed networks. De-averaging of prices ensures that buyers face more accurate price information than they did previously and improves market efficiencies by eliminating distortions arising from arbitrage activities, and by improving price signals and transparency.[7] No commenting party appears to suggest that this development in itself is problematic.

AT&T's simplistic assertions that foreign rates are "in excess of cost" are unsubstantiated and ignore the extensive analysis undertaken by foreign regulators on these issues. Vodafone has already shown that comparing the termination rates of foreign mobile operators in a calling party pays ('CPP') environment with those of U.S. mobile operators is simplistic and inappropriate.[8] As evidenced by the efforts of many foreign regulators over many years, assessing costs in mobile networks is highly complex. Neither USTR nor the FCC have undertaken such an analysis to date.

In many of the markets in which Vodafone operates, foreign regulators or competition authorities have already initiated or taken actions to address mobile termination rates and rates have fallen substantially, including in markets mentioned in AT&T's and Comptel's filings.[9]

Comptel states that in Japan, "mobile termination rates are no longer significantly out of line with costs."[10] However, termination charges in Japan remain substantially unchanged since

---

[6] AT&T Comments at 2.
[7] *See* Vodafone 2005 Section 1377 Reply Comments at 1-2.
[8] *See* Vodafone Comments in FCC IB Docket No. 04-398, filed Jan. 14, 2005, and Reply Comments filed Feb. 14, 2005; Vodafone Comments and Reply Comments in FCC IB Docket No. 02-324.
[9] The Vodafone markets cited by AT&T and/or Comptel are set forth below (together with recent action on mobile termination rates): Australia (33% reduction proposed by 2007); Belgium (LRIC modeling study in progress); France (24% reduction in 2006); Germany (17% reduction at end of 2005); Greece (LRIC modeling and review process leading to a new lower rate under an 18 month glidepath); Italy (26% reduction by 2008 using RPI-13% formula in 2007 and 2008); Malta (23% reduction by 2008); Netherlands (17% reduction at the end of 2005); New Zealand (42% reduction proposed); Poland (termination rate review process in progress); Portugal (22% reduction in 2006); Romania (LRIC modeling study under completion); Spain (11% reduction in 2005); and Switzerland (40% reduction by Swisscom towards the end of 2005).
[10] Comptel Comments at 2.

previous submissions from Comptel, suggesting either that their view of 'costs' has changed or that past data was unreliable.[11] In fact, Japanese rates are consistent with rates imposed in a number of supposedly "problem" markets. Vodafone has previously provided the FCC with extensive empirical data to rebut inaccurate and unsubstantiated assertions from other parties.[12]

Further, AT&T and Comptel focus only on one market component – the termination rates charged by foreign mobile operators to domestic fixed line operators – when in fact the charges faced by U.S. carriers are those offered by their foreign correspondents. These charges include both termination costs and transit costs. As stated in last year's Section 1377 proceeding, Vodafone would see merit, for example, in the development of a more sophisticated transit market.[13] U.S. carriers could also pursue direct interconnection with foreign mobile operators and thereby bypass the transit market altogether. It may be, however, that the prospect of revenue from return traffic through more traditional correspondent arrangements creates perverse incentives which inhibit reform in this area. The USTR would need to inquire further into these matters if it were to pursue the parties' complaints.

Please contact the undersigned if there are questions concerning this filing or if you need additional information.

Respectfully submitted,

/s/____________________

Richard Feasey

Public Policy Director
Vodafone Group Services Limited
Bell House, The Connection
Newbury, Berkshire
RG14 2FN, England
Direct Line: 011 44(0) 1635 674 992
Facsimile: 011 44(0) 1635 238 042

E-Mail: richard.feasey@vodafone.com

---

[11] Comptel, for example, asserts that German termination rates are 16 cents, *see* Comptel Comments at 14, which appears to ignore reductions in December 2005.
[12] *See* Vodafone Comments in FCC IB Docket No. 04-398, filed Jan. 14, 2005, at 13-29, and Reply Comments filed Feb. 14, 2005, at 1-12.
[13] *See* Vodafone 2005 Section 1377 Reply Comments at 2.