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

In the Matter of	)	
	)	
VERIZON COMMUNICATIONS, INC.,	)	WT Docket No. 06-113
Transferor,	)	
	)	
and	)	
	)	
AMÉRICA MÓVIL, S.A. DE C.V., Transferee,	)	
	)	
Application for Authority to Transfer Control of	)	
Telecomunicaciones de Puerto Rico, Inc.	)	
(TELPRI)	)	

MEMORANDUM OPINION AND ORDER AND DECLARATORY RULING

Adopted: March 26, 2007 **Released: March 26, 2007**

By the Commission: Commissioners Copps and Adelstein approving in part, dissenting in part, and issuing separate statements.

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I. INTRODUCTION

1. In this Memorandum Opinion and Order and Declaratory Ruling, we consider an application filed by Verizon Communications, Inc. (Verizon) (transferor), and América Móvil, S.A. de C.V. (América Móvil) (transferee) (collectively, Applicants) for authority to transfer control of the domestic and international Section 214 authorizations and Title III licenses held by subsidiaries of Telecomunicaciones de Puerto Rico, Inc. (TELPRI), from Verizon to América Móvil (Transfer of Control Application).[1] Based on the record established in this proceeding, we find that the Applicants have met their burden and that grant of this Transfer of Control Application and the petition for declaratory ruling under Section 310(b)(4) of the Communications Act will serve the public interest, convenience and necessity, subject to the conditions specified below. We also deny the petitions filed in response to the Transfer of Control Application. We also grant the Petition to Adopt Conditions to Authorizations and Licenses filed by the United States Department of Justice, the Federal Bureau of Investigation and the United States Department of Homeland Security, and also grant the Petition to Attach Conditions filed by the United States Department of Defense.

II. BACKGROUND

A. The Current Ownership Structure

2. Telecomunicaciones de Puerto Rico, Inc. (TELPRI), through its wholly-owned subsidiary, the Puerto Rico Telephone Company, Inc. (PRTC), is the current holder of Section 214 domestic authorizations and Title III licenses to provide wireline and wireless telecommunications to consumers in Puerto Rico, and, through its subsidiary, PRT Larga Distancia, Inc. (PRT LD), is authorized to provide interstate telecommunications services between Puerto Rico and the U.S. mainland

[1] *See* Applications of Verizon Communications, Inc., Transferor, and América Móvil, S.A. de C.V., Transferee, for Consent to the Transfer of Control of Entities Holding Commission Licenses and Authorizations Pursuant to Section 214 and 310(d) of the Communications Act, ULS File No. 0002597508; IBFS File Nos. ITC-T/C-20060510-00269, ISP-PDR-20060509-00006 (filed May 9, 2006) (Transfer of Control Application). The overall Transfer of Control Application consists of three applications—an Application for Authority to Transfer Domestic Section 214 Authorizations (Domestic Authorizations Application), an Application for Authority to Transfer International Section 214 Authorizations (International Authorizations Application), and an Application for Authority to Transfer Title III Wireless Licenses (Wireless Licenses Application). The application for consent to transfer control of wireless licenses, ULS File No. 0002597508, contains a transaction overview (Transaction Overview) that includes a petition for declaratory ruling (Declaratory Ruling Petition). The Transaction Overview also includes a Public Interest Statement (América Móvil/Verizon Public Interest Statement). On June 8, 2006, Attorneys for Verizon and América Móvil file a letter submitting supplemental information on the application. *See* Letter from Michael Jones, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated June 8, 2006 (June 8 Letter). *See also* Letter from Philip L. Verveer, Michael G. Jones, and Daniel K. Alvarez, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated November 1, 2006 (November 1 Letter); Letter from Daniel K. Alvarez, Willkie, Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated December 1, 2006 (December 1 Letter); Letter from Daniel K. Alvarez, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated December 6, 2006 (December 6 Letter); Letter from Philip L. Verveer, Michael G. Jones, and Daniel K. Alvarez, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated December 14, 2006 (December 14 Letter); Letter from Daniel K. Alvarez, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated January 8, 2007 (January 8 Letter); Letter from Philip L. Verveer, Michael G. Jones, and Daniel K. Alvarez, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated February 26, 2007 (February 26 Letter). Appendix A to this *Memorandum Opinion and Order and Declaratory Ruling* lists the authorizations and licenses associated with the Transfer of Control Application.

and other U.S. points and international telecommunications services between the United States and overseas points.[2] Additionally, PRTC provides postpaid and prepaid mobile telephony service in Puerto Rico under the Verizon brand name. TELPRI is owned by Verizon and certain other shareholders, but is controlled by Verizon. PRTC is the largest provider of telecommunications services in Puerto Rico, with approximately 1.1 million wireline subscribers and approximately 500,000 wireless subscribers.

3. Prior to 1999, PRTC was the monopoly provider of wireline telecommunications in Puerto Rico and was owned by the Puerto Rico Telecommunications Authority (PRTA), an agency of the government of the Commonwealth of Puerto Rico. In that year, the Telecommunications Board of Puerto Rico (Board) began the process of privatizing PRTC and approved an application by PRTC and PRT LD to transfer control of PRTC's licenses under Title III and a global resale authorization under Section 214 of the Communications Act to GTE Holdings (Puerto Rico) LLC (GTE Holdings). GTE Holdings had proposed to acquire at least 51 percent plus one share of the stock in TELPRI (which, at that time, was a wholly-owned subsidiary of PRTA). Additionally, the privatization plan called for GTE and PRTA to transfer shares of stock in TELPRI to Popular Inc.,[3] to private investors, and to a PRTC employees stock ownership plan. At the close of the transaction, GTE held 40 percent of the stock in PRTC, with an option to acquire additional stock from PRTA at a future date. The privatization agreement also called for GTE to acquire control of PRTC.

4. The Board conditioned its approval of the privatization agreement upon GTE's continued compliance with an order already in effect that required PRTC to grant equal access to its network to competing telephone companies and to comply with network information disclosures, customer proprietary information protections and service data reporting requirements. The Board stated that it was relying upon a pledge by GTE to invest more than $850 million to improve PRTC facilities and services over a five-year period following approval of the privatization agreement.

5. In 2000, slightly less than a year after approval of the privatization agreement, the FCC approved the merger of GTE and Bell Atlantic Corporation.[4] The merged company changed its name to Verizon Communications, Inc., under which it currently operates.

B. The Applicants

1. The Transferor

6. Verizon, through its subsidiaries, operates local and long distance telecommunications services in the United States, and maintains communications networks, with facilities in North America, Latin America, Europe and Asia. Verizon is a majority owner of Verizon Wireless, which serves approximately 53 million voice and data subscribers in the United States.[5] Verizon indirectly owns TELPRI through its wholly-owned subsidiary GTE Holdings (Puerto Rico) LLC (GTE Holdings).[6]

[2] Both PRTC and PRT LD are wholly owned operating subsidiaries of TELPRI. PRTC is authorized, pursuant to Section 214 of the Communications Act of 1934, as amended (the "Act"), to provide domestic telecommunications services. 47 U.S.C. § 214. PRT LD is authorized pursuant to section 214 of the Act to provide domestic, interstate and international services**.**

[3] Popular Inc. is the holding company that owns Banco Popular de Puerto Rico, one of the largest financial institutions in Puerto Rico. Telecommunications Regulatory Board of Puerto Rico, Petition to Deny of the Telecommunications Regulatory Board of Puerto Rico, filed July 14, 2006 (Board Petition) at 5, n.4.

[4] *See Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee*, CC Docket 98-184, Memorandum Opinion and Order, FCC 00-221, 15 FCC Rcd 14032 (2000) (*Bell Atlantic/GTE Order*).

[5] *See* Transaction Overview at 5.

[6] *Id.* at 2.

2. The Transferee

7. América Móvil is a Mexican holding company formed in 2000 as a spin-off from Teléfonos de México, S.A. de C.V. (Telmex). At the time the parties filed the application, 40.36 percent of the total capital stock of América Móvil was owned directly by América Telecom, which also held a majority of América Móvil's full voting shares.[7] América Telecom, in turn, was majority owned by Mr. Carlos Slim Helú and certain members of his immediate family (collectively, the Slim family), all of whom are Mexican citizens. On February 15, 2007, América Telecom merged with and into América Móvil. As a result of the merger, the Slim family owns approximately 32.33 percent of the total capital stock of América Móvil and holds a majority of its full voting shares. The remainder of the equity and voting interests in América Móvil remains held by SBC International, Inc. (SBCI), and other Mexican and non-Mexican public investors.

8. América Móvil, through various operating subsidiaries, provides telecommunications services to more than 110 million subscribers in 14 countries in North, Central and South America. América Móvil's predominant business (which accounts for 100 million of its subscribers) is the provision of wireless telecommunications services.[8] América Móvil also provides, through various operators, wireline telecommunications services in El Salvador, Guatemala, and Nicaragua that collectively provide service to more than 2 million subscribers. América Móvil's sole current operation in the United States is its indirect, controlling interest in TracFone Wireless, Inc. (TracFone), a prepaid wireless telecommunications provider in the United States (including Puerto Rico). As of March, 2006, TracFone had 6.9 million wireless subscribers in the United States.

C. The Transaction

9. On April 2, 2006, Sercotel, S.A. de C.V. (Sercotel), a corporation organized under the laws of Mexico and a wholly-owned subsidiary of América Móvil,[9] entered into an agreement (Stock Purchase Agreement) with GTE Holdings (Puerto Rico) LLC (GTE Holdings), a wholly-owned subsidiary of Verizon, to purchase all of the issued and outstanding shares of common stock in TELPRI held by GTE Holdings, representing 52 percent of the issued and outstanding shares of common stock of TELPRI. Sercotel will pay GTE Holdings $72.13567 cash for each share, representing an aggregate purchase price of approximately $938 million. Sercotel will acquire shares through Tenedora Telpri, S.A. de C.V. (Tenedora), a newly formed indirect subsidiary of Sercotel organized under the laws of Mexico.[10]

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[7] The remainder of the equity and voting interests in América Móvil were held by SBC International, Inc. (SBCI), and other Mexican and non-Mexican public investors.

[8] América Móvil's largest business remains the provision of wireless services in Mexico, under the name of Telcel, and serves 37.6 million wireless subscribers. Telcel is another name for Radiomóvil Dipsa, S.A. de C.V., a Mexican corporation that is América Móvil's main operating subsidiary in Mexico. December 14 Letter at 1-2.

[9] According to the December 14 Letter, Sercotel is the primary holding company through which América Móvil holds shares in other companies. Sercotel is a direct, wholly-owned (99.99%) and controlled subsidiary of América Móvil, except for a qualifying share, representing 0.01 percent of Sercotel's capital stock, that is owned by AMX Tenedora, S.A. de C.V. (AMX Tenedora). December 14 Letter at 2. AMX Tenedora is organized under the laws of Mexico and is ultimately wholly owned and controlled by América Móvil. *Id*. at 2 & Appendix A. The term "qualifying share" arises from a corporate law requirement in Mexico stipulating that all corporations must have at least two shareholders. *Id.* at 1.

[10] América Móvil states that Tenedora is a direct, wholly-owned (99.99%) and controlled subsidiary of Radiomóvil Dipsa, S.A. de C.V., which is also known as Telcel (*see supra* note 8 and accompanying text). Telcel, in turn, is a direct, wholly-owned (99.99%) and controlled subsidiary of Sercotel. December 14 Letter at 1. The (continued….)

10. Additionally, the Stock Purchase Agreement requires that Sercotel purchase any and all shares of TELPRI common stock that the other TELPRI stockholders elect to include in the transaction, without any reduction in the number of shares purchased by Sercotel from GTE Holdings.[11] All but one stockholder has elected to participate in the transaction.[12] América Móvil is currently slated to purchase at least a 93 percent share of TELPRI.[13]

11. The proposed transaction is part of an overall plan to transfer all of the issued and outstanding shares of common stock of TELPRI to Sercotel. After consummation of the transaction, TELPRI will continue to own the stock of its subsidiaries and TELPRI and its subsidiaries will continue to hold all of the FCC authorizations and licenses that they hold prior to the transaction.[14] The transaction will not affect the licenses and authorizations currently held by América Móvil and Verizon, and these companies will continue to provide service to the public.

D. Comments on the Transfer of Control Application

12. The Transfer of Control Application was placed on Public Notice on June 14, 2006.[15] The Commission received a number of comments on the Transfer of Control Application. First, the Commission received a Motion to Address Public Interest Concerns, filed by the Honorable Kenneth D. McClintock and the Honorable Orlando Parga, respectively the President and President Pro Temp of the Senate of Puerto Rico, opposing the transfer of TELPRI to América Móvil.[16] The Commission also received four petitions to deny from WorldNet Telecommunications, Inc (WorldNet),[17] the Telecommunications Regulatory Board of Puerto Rico (Board),[18] Centennial Communications Corp.

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qualifying share of Tenedora, representing 0.01 percent of its capital stock, is held by Amov IV S.A. de C.V. (Amov IV). Amov IV is a holding company organized under the laws of Mexico, and wholly owned and controlled (99.99 percent) by Sercotel, except for a qualifying share, representing 0.01 percent of Amov IV's capital stock, that is held by Telcel. *Id.* The qualifying share of Telcel, representing 0.01 percent of its capital stock, is held by Amov IV. *See id*. at 1-2 & Appendix A (illustrating that all of the named companies are ultimately wholly owned and controlled by América Móvil).

[11] Transaction Overview at 2.

[12] The remaining 7 percent share is owned by the TELPRI Employee Stock Ownership Plan, which has not decided whether to participate in the transaction. November 1 Letter.

[13] On May 4, 2006, Popular, Inc., a TELPRI shareholder, agreed to sell América Móvil all the stock it owns in TELPRI, representing approximately 13 percent of the total shares in TELPRI. Since then, the Puerto Rico Telephone Authority has also elected to sell its 28 percent share of TELPRI. November 1 Letter at n.2.

[14] *Id.*

[15] *See América Móvil, Verizon Communications, Inc., and Subsidiaries of Telecomunicaciones de Puerto Rico, Inc., Seek FCC Consent to transfer Control of Licenses and Authorizations and Request a Declaratory Ruling on Foreign Ownership*, WT Docket No. 06-113, Public Notice, 21 FCC Rcd 6492 (2006).

[16] Kenneth D. McClintock and Orlando Parga, Motion to Address Public Interest Concerns, filed July 13, 2006 (McClintock/Parga Motion).

[17]WorldNet Telecommunications, Inc., Petition to Deny of WorldNet Telecommunications, Inc., filed July 14, 2006 (WorldNet Petition).

[18] Telecommunications Regulatory Board of Puerto Rico, Petition to Deny of the Telecommunications Regulatory Board of Puerto Rico, filed July 14, 2006 (Board Petition).

(Centennial),[19] and Telefónica Larga Distancia de Puerto Rico, Inc. (TLD).[20] Additionally, Sprint Nextel Corporation (Sprint) filed comments on the Transfer of Control Application, seeking the imposition of certain conditions upon any grant thereof.[21] The U.S. Department of Justice (DOJ), for itself and on behalf of the Federal Bureau of Investigation (FBI), with the concurrence of the Department of Homeland Security (DHS), sent a letter requesting the Commission to defer action on the Transfer of Control Application until such time as DOJ, FBI and DHS notify the Commission that potential national security, law enforcement and public safety issues have or have not been resolved.[22] On December 14, 2006, the United States Department of Defense (DOD) filed a Petition to Defer a grant of the Transfer of Control Application until DOD notified the Commission that potential national security issues have been satisfactorily resolved.[23] On December 15, 2006, DOJ filed a Petition to Adopt Conditions to Authorizations and Licenses.[24] On December 19, 2006, DOD filed a Petition to Adopt Conditions to be attached to a grant of the Transfer of Control Application.[25]

13. América Móvil and Verizon filed an opposition to the petitions to deny.[26] Centennial, the Board, TLD, and WorldNet filed reply comments to the América Móvil and Verizon Opposition.[27] Additionally, América Móvil and Verizon filed reply comments.[28] The Communications Workers of America (CWA) and the Union de Trabajadores de las Comunicaciones de Puerto Rico/CWA Local 3010 (UTCPR) filed reply comments.[29] Subsequently, Centennial submitted additional information for

[19] Centennial Communications Corp., Centennial Communications Corp. Petition to Deny, filed July 14, 2006 (Centennial Petition).

[20] Telefónica Larga Distancia de Puerto Rico, Inc., Petition to Deny, or, in the Alternative, Condition Commission Consent (TLD Petition).

[21] Sprint Nextel Corporation, Comments of Sprint Nextel Corporation, filed July 12, 2006 (Sprint Comments).

[22] Letter from Sigal P. Mandelker, Deputy Assistant Attorney General, U.S. Department of Justice, Criminal Division, to Marlene H. Dortch, Secretary, FCC, dated July 14, 2006 (DOJ Letter).

[23] United States Department of Defense, Petition to Defer, filed December 14, 2006 (DOD Petition to Defer).

[24] United States Department of Justice, Petition to Adopt Conditions to Authorizations and Licenses, filed December 15, 2006 (DOJ Petition to Adopt Conditions). The U.S. Department of Justice, including the Federal Bureau of Investigation, filed this petition on behalf of itself and the United States Department of Homeland Security. *Id.* at 1.

[25] United States Department of Defense, Department of Defense to Adopt Conditions (sic), filed December 19, 2006 (DOD Petition to Attach Conditions).

[26] América Móvil, S.A. de C.V. and Verizon Communications, Inc., América Móvil's and Verizon's Opposition to Petitions to Deny, filed July 24, 2006 (América Móvil/Verizon Opposition).

[27] Centennial Communications Corp., Centennial Communications Corp. Reply to Opposition to Petition to Deny, filed July 28, 2006 (Centennial Reply); Telecommunications Regulatory Board of Puerto Rico, Reply to Opposition, filed July 31, 2006 (Board Reply); Telefónica Larga Distancia de Puerto Rico, Inc., Reply to América Móvil's and Verizon's Oppositions to Petitions to Deny, filed July 31, 2006 (TLD Reply); WorldNet Telecommunications, Inc., Reply of WorldNet Telecommunications, Inc., filed July 31, 2006 (WorldNet Reply).

[28] América Móvil, S.A. de C.V. and Verizon Communications, Inc., América Móvil's and Verizon's Reply Comments, filed July 31, 2006 (América Móvil/Verizon Reply).

[29] Communications Workers of America and Union de Trabajadores de las Comunicaciones de Puerto Rico/CWA Local 3010, Reply Comments of Communications Workers of America and Union de las Trabajadores de las Comunicaciones de Puerto Rico/CWA Local 3010, filed July 31, 2006 (CWA Reply).

the record bearing on matters it raised in its petition to deny,[30] to which Verizon replied.[31] Finally, WorldNet filed comments supporting the matters asserted in Centennial's submission, and replied to Verizon's comments.[32]

14. All four parties filing petitions to deny argue that the proposed transaction promises no tangible benefits to consumers and poses a substantial threat to competition in the Puerto Rico telecommunications market.[33] They note that América Móvil states that users will benefit from its economies of scale, but makes no specific promises of improvements.[34] More specifically, WorldNet argues that PRTC has been operating virtually without regulatory oversight, has never been required to prove that it provides non-discriminatory access to unbundled network elements, and has never been required to show that it offers for resale at wholesale rates any telecommunications service that it provides on a retail basis.[35] Centennial also notes that this transaction represents the first time that an incumbent local exchange carrier (ILEC) will be transferred to a foreign owner. As such, Centennial argues that the proposed transaction poses national security, law enforcement, and public safety issues.[36]

15. The petitioners also argue that the Commission should deny the Transfer of Control Application or subject it to conditions that would ensure that PRTC under the ownership of América Móvil will not engage in anticompetitive conduct.[37] Petitioners raise a number of arguments about the state of competition in Puerto Rico, including that competition in Puerto Rico is relatively new and fragile.[38] WorldNet, Centennial and PRT LD note that PRTC still retains a large share of the market in Puerto Rico and that competing entities have had difficulties getting the kind of access to PRTC's services and facilities that are required for effective competition.[39] WorldNet notes that PRTC was allowed to enter the long-distance telephone market in 1991, before the enactment of the Telecommunications Act of 1996.[40] As a result, WorldNet and TLD argue that the conduct of PRTC has never been reviewed to ensure that it grants effective access to its competitors and has not been made subject to the competitive safeguards applicable to other ILECs under the 1996 Act.[41]

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[30] Letter from Christopher W. Savage, Cole, Raywid & Braverman, to Marlene H. Dortch, Secretary, FCC, dated August 24, 2006 (Centennial Aug. 24 *Ex Parte* Letter).

[31] Letter from Donna Epps, Vice President, Federal Regulatory, Verizon Communications, Inc., to Marlene H. Dortch, Secretary, FCC, dated September 1, 2006 (Verizon Sept. 1 *Ex Parte* Letter).

[32] Letter from H. Russell Frisby, Jr., Fleischman and Walsh, L.L.P., to Marlene H. Dortch, Secretary, FCC, dated September 21, 2006.

[33] WorldNet Petition at 10-20; Centennial Petition at 2-3; Board Petition at 8-12; TLD Petition at 16-46. In addition to Centennial, TLD, and WorldNet, Sprint proposed conditions to the transfer of control, but did not file a petition to deny. Sprint Comments at 4-6.

[34] TLD Petition at 16-22; Board Petition at 8-10; Centennial Reply at 1-2; Board Reply at 5-8; WorldNet Reply at 3-10.

[35] WorldNet Petition at 12-3.

[36] Centennial Petition at 1-2. *See also* McClintock/Parga Motion at 5-6; CWA Comments at 2.

[37] Centennial Petition at 8-16; WorldNet Petition at 21-27, 28-38; Board Petition at 11-13; TLD Petition at 52-58.

[38] WorldNet Petition at 14-16; TLD Petition at 10-16, 23-25; Board Petition at 3-4; Centennial Petition at 8. *See also* Sprint Comments at 2-4.

[39] WorldNet Petition at 7, 14-19; Centennial Corp. Petition at 2,8; PRT LD Petition at 10-16.

[40] WorldNet Petition at 10-13.

[41] WorldNet Petition at 27-28; TLD Reply at 17-18.

16. In the Applicants' opposition to the petitions to deny, América Móvil and Verizon assert that the proposed transfer of TELPRI will serve the public interest and will not threaten competition in the Puerto Rico market. Applicants argue that América Móvil is a large company whose economies of scope and scale will benefit users. Applicants argue that the transfer would not increase concentration in the Puerto Rico market, because the only overlap with existing carriers in Puerto Rico is América Móvil's limited provision of resold prepaid mobile telephony service to a few thousand Puerto Rico customers through its subsidiary TracFone. Rather, Applicants characterize the petitions as largely an attempt to air a number of grievances against TELPRI unrelated to the transfer of TELPRI to América Móvil. Finally, Applicants argue that petitioners' assertions concerning América Móvil's foreign ownership are speculative and that such ownership does not adversely affect the ability of the Board to require TELPRI to comply with applicable regulations.

III. PUBLIC INTEREST ANALYSIS

A. Framework of Analysis

17. Pursuant to sections 214(a) and 310(d) of the Act,[42] the Commission must determine whether the proposed transfer of control to América Móvil of licenses and authorizations held and controlled by TELPRI will serve the public interest, convenience, and necessity.[43] In making this determination, we first assess whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's rules. If the proposed transaction would not violate a statute or rule, the Commission considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes. The Commission then employs a balancing test weighing any potential public interest harms of the proposed transaction against the potential public interest benefits.[44] The Applicants bear the burden of proving, by

[42] 47 U.S.C. §§ 214(a), 310(d).

[43] 47 U.S.C. § 310(d) requires that we consider applications for transfer of Title III licenses under the same standard as if the proposed transferee were applying for the licenses directly under section 308 of the Act, 47 U.S.C. § 308. *See Applications of Guam Cellular and Paging, Inc. and DoCoMo Guam Holdings, Inc.*, WT Docket No. 06-96, Memorandum Opinion and Order and Declaratory Ruling, 21 FCC Rcd 13580, 13588, ¶ 13 (2006) (*DoCoMo-Guam Cellular Order*); *Applications of Midwest Wireless Holdings, L.L.C. and ALLTEL Communications, Inc.*, WT Docket No. 05-339, Memorandum Opinion and Order, 21 FCC Rcd 11526, 11535, ¶ 16 (2006) (*ALLTEL-Midwest Wireless Order*); *SBC Communications, Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, WC Docket No. 05-65, Memorandum Opinion and Order, FCC 05-183, 20 FCC Rcd 18290, 18300, n.60 (2005) (*SBC/AT&T Order*); *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket No. 05-75, Memorandum Opinion and Order, FCC 05-184, 20 FCC Rcd 18433, 18443, n.59 (2005) (*Verizon/MCI Order*); *Applications of Western Wireless Corporation and Alltel Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-50, Memorandum Opinion and Order, FCC 05-138, 20 FCC Rcd 13053, 13062-63, ¶ 17 (2005) (*Alltel/Western Wireless Order*); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation*, WT Docket 04-70, Memorandum Opinion and Order, FCC 04-255, 19 FCC Rcd 21522, 21542, ¶ 40 (2004) (*Cingular/AT&T Wireless Order*); *General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee*, MB Docket No. 03-124, Memorandum Opinion and Order, FCC 03-330, 19 FCC Rcd 473, 485, ¶ 18 (2004) (*News Corp./Hughes Order*).

[44] *See, e.g., DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13589, ¶ 13; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11535, ¶ 16; *SBC/AT&T Order*, 20 FCC Rcd at 18300, ¶ 16; *Verizon/MCI Order*, 20 FCC Rcd at 18443, ¶ 16; *Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, FCC 05-148, 20 FCC Rcd 13967, 13976, ¶ 20 (2005) (*Sprint-Nextel Order*); *Alltel/Western Wireless Order*, 20 FCC Rcd at 13062-63, ¶ 17; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21542-43, ¶ 40; *News Corp./Hughes Order*, 19 FCC Rcd at 483, ¶ 15; *Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee*, CC Docket 98- (continued….)

a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.[45] If we are unable to find that the proposed transaction serves the public interest for any reason, or if the record presents a substantial and material question of fact, we may designate the Transfer of Control Application for hearing.[46]

18. Our public interest evaluation necessarily encompasses the "broad aims of the Communications Act,"[47] which include, among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private sector deployment of advanced services, ensuring a diversity of license holdings, and generally managing the spectrum in the public interest.[48] Our public interest analysis may also entail assessing whether the proposed transaction will

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184, Memorandum Opinion and Order, FCC 00-221, 15 FCC Rcd 14032, 14046, ¶¶ 20, 22 (2002); *Applications of VoiceStream Wireless Corporation and Powertel, Inc., Transferors, and Deutsche Telekom AG, Transferee,* IB Docket No. 00-187, Memorandum Opinion and Order, FCC 01-142, 16 FCC Rcd 9779, 9789, ¶ 17 (2001) (*Deutsche Telekom/VoiceStream Order*); *Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, CC Docket No. 98-141, Memorandum Opinion and Order, FCC 99-279, 14 FCC Rcd 14712, 14737-38, ¶ 48 (1999) (*SBC/Ameritech Order*); *Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, CC Docket No. 97-211, Memorandum Opinion and Order, FCC 98-225, 13 FCC Rcd 18025, 18031, ¶ 10 (1998) (*WorldCom/MCI Order*); *Applications of NYNEX Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of NYNEX Corporation and its Subsidiaries*, Memorandum Opinion and Order, FCC 97-286, 12 FCC Rcd 19985, 19987, ¶ 2 (1997).

[45] *See, e.g., DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13589, ¶ 13; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11535, ¶ 16; *SBC/AT&T Order*, 20 FCC Rcd at 18300, ¶ 16; *Verizon/MCI Order*, 20 FCC Rcd at 18443, ¶ 16; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21542-44, ¶ 40 (citing, *e.g., News Corp./Hughes Order*, 19 FCC Rcd at 483, ¶ 15; *Applications for Consent to the Transfer of Control of Licenses from Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee*, MB Docket No. 02-70, Memorandum Opinion and Order, FCC 02-310, 17 FCC Rcd 23246, 23255, ¶ 26 (2002) (*AT&T/Comcast Order*); *Application of EchoStar Communications Corporation (a Nevada Corporation), General Motors Corporation, and Hughes Electronics Corporation (Delaware Corporations) (Transferors) and EchoStar Communications Corporation (a Delaware Corporation) (Transferee)*, CS Docket No. 01-348, Hearing Designation Order, FCC 02-284, 17 FCC Rcd 20559, 20574, ¶ 25 (2002) (*EchoStar/DirecTV Order*)).

[46] We are not required to designate for hearing applications for the transfer or assignment of Title II authorizations when we are unable to find that the public interest would be served by granting the applications. *See ITT World Communications, Inc. v. FCC*, 595 F.2d 897, 901 (2d Cir. 1979). We may, however, do so if we find that a hearing would be in the public interest. However, with respect to the applications to transfer licenses subject to Title III of the Act, if we are unable to find that the proposed transaction serves the public interest, or if the record presents a substantial and material question of fact, section 309(e) of the Act requires that we designate the application for hearing. 47 U.S.C. § 309(e); *see DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13589, ¶ 13; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11535, ¶ 16; *EchoStar/DirecTV Order*, 17 FCC Rcd at 20574, ¶ 25; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21542-44, ¶ 40.

[47] *See DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13591, ¶ 15; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11537, ¶ 18; *SBC/AT&T Order*, 20 FCC Rcd at 18301, ¶ 17; *Verizon/MCI Order*, 20 FCC Rcd at 18443, ¶ 17; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21544, ¶ 41 (citing, *e.g., News Corp./Hughes Order*, 19 FCC Rcd at 483-84, ¶ 16; *AT&T/Comcast Order*, 17 FCC Rcd at 23255, ¶ 27; *EchoStar/DirecTV Order*, 17 FCC Rcd at 20575, ¶ 26).

[48] *See* 47 U.S.C. §§ 157 nt. (incorporating section 706 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act)), 254, 332(c)(7)); 1996 Act, Preamble; *DoCoMo-Guam Cellular Order*, 21 (continued….)

affect the quality of communications services or will result in the provision of new or additional services to consumers.[49] In conducting this analysis, the Commission may consider technological and market changes, and the nature, complexity, and speed of change of, as well as trends within, the communications industry.[50]

19. Our analysis starts with an examination of whether the Applicants are qualified to hold and assign licenses pursuant to sections 214(a) and 310(d) of the Act.[51] Next, we consider the arguments raised by commenters regarding the potential harms and benefits of the proposed transaction, as well as its effects on competition. Next, we consider the need for international dominant carrier regulation. Then we consider foreign ownership issues. Finally, we consider issues related to national security, law enforcement, foreign policy, and trade policy.

B. Qualifications of the Applicants

20. As a threshold matter, we must determine whether the Applicants meet the requisite qualifications to hold and transfer licenses under section 310(d) of the Act and the Commission's rules. In general, when evaluating assignments under section 310(d), we do not re-evaluate the qualifications of the transferor.[52] The exception to this rule occurs where issues related to basic qualifications have been designated for hearing by the Commission or have been sufficiently raised in petitions to warrant the designation of a hearing.[53] This is not the case here, so we need not re-evaluate Verizon's basic qualifications.

21. Section 310(d) also requires that the Commission consider the qualifications of the proposed transferee as if the transferee were applying for the license directly under section 308 of the

(Continued from previous page)
FCC Rcd at 13591, ¶ 15; *SBC/AT&T Order*, 20 FCC Rcd at 18301, ¶ 17; *Verizon/MCI Order*, 20 FCC Rcd at 18443-44, ¶ 17; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21544, ¶ 41; *see also WorldCom/MCI Order*, 13 FCC Rcd at 18030-31, ¶ 9; *2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services*, Report and Order, FCC 01-328, 16 FCC Rcd 22668, 22696, ¶ 55 (2001) (citing 47 U.S.C. §§ 301, 303, 309(j), 310(d)); *cf.* 47 U.S.C. §§ 521(4), 532(a)).

[49] *See DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13591, ¶ 15; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11537, ¶ 18; *SBC/AT&T Order*, 20 FCC Rcd at 18301, ¶ 17; *Verizon/MCI Order*, 20 FCC Rcd at 18443-44, ¶ 17; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21544, ¶ 41 (citing, *e.g.*, *AT&T/Comcast Order*, 17 FCC Rcd at 23255, ¶ 27; *WorldCom/MCI Order*, 13 FCC Rcd at 18030-31, ¶ 9).

[50] *See DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13591, ¶ 15; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11537, ¶ 18; *SBC/AT&T Order*, 20 FCC Rcd at 18301-02, ¶ 17; *Verizon/MCI Order*, 20 FCC Rcd at 18444, ¶ 17; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21544, ¶ 41.

[51] 47 U.S.C. §§ 214(a), 310(d).

[52] *See DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13590, ¶ 14; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11536, ¶ 17; *Sprint Nextel-Nextel Partners Order*, 21 FCC Rcd at 7362, ¶ 10; *SBC-AT&T Order*, 20 FCC Rcd at 18379, ¶ 171; *Verizon-MCI Order*, 20 FCC Rcd at 18526, ¶ 183; *Sprint-Nextel Order*, 20 FCC Rcd at 13979, ¶ 24; *ALLTEL-Western Wireless Order*, 20 FCC Rcd at 13063-4, ¶ 18; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21546, ¶ 44; *Deutsche Telekom/VoiceStream Order*, 16 FCC Rcd at 9790, ¶ 19.

[53] *See DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13590, ¶ 14; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd 11536, ¶ 17; *Sprint Nextel-Nextel Partners Order*, 21 FCC Rcd at 7362, ¶ 10; *SBC-ATT Order*, 20 FCC Rcd at 18379, ¶ 171; *Verizon-MCI Order*, 20 FCC Rcd at 18526, ¶ 183; *Sprint-Nextel Order*, 20 FCC Rcd at 13979, ¶ 24; *ALLTEL-Western Wireless Order*, 20 FCC Rcd at 13063-4, ¶ 18; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21546, ¶ 44; *Deutsche Telekom/VoiceStream Order*, 16 FCC Rcd at 9790, ¶ 19.

Act.[54] Several parties have raised issues as to the likelihood of América Móvil's engaging in anticompetitive conduct, which we discuss below. The only challenge to the basic qualifications of the transferee in this transaction is the allegation that América Móvil, as a predominantly wireless carrier, lacks the qualifications to acquire PRTC.[55] We find, based on the evidence in the record,[56] that América Móvil has extensive telecommunications experience, including with wireline carriers, and that commenters have failed to raise any question with regard to América Móvil's qualifications to acquire PRTC. Furthermore, we find no evidence that the transferee lacks the requisite financial, legal, technical or other basic qualifications to be a licensee under the Communications Act. Thus, we find that América Móvil possesses the basic qualifications to be the transferee of the subject licenses and authorizations.

C. Effect on Competition

1. Analytical Framework

22. In this section, we consider the potential public interest harms, including potential harms to competition, arising from this transfer of control. Consistent with Commission precedent, in addition to considering whether the transfer of control will reduce existing competition, we also must focus on its likely effect on future competition.[57] Below, we discuss the potential competitive effects of the transaction in the wireline and mobile telephony markets in Puerto Rico. In doing so, we recognize that América Móvil will assume control over local exchange facilities needed by other providers,[58] but find, on the record before us, that the proposed transaction is not likely to have an anticompetitive effect in Puerto Rico.

2. Wireline Telecommunications Market

23. Based on the evidence in the record, we find that there is no increase in concentration in

[54] Section 308 requires that applicants for Commission licenses set forth such facts as the Commission may require as to citizenship, character, and financial, technical, and other qualifications. *See* 47 U.S.C. § 308. Our rules implementing the provisions of section 308 regarding an applicant's qualifications to hold the Commission licenses involved in this transfer are set forth in Parts 5, 25 and 63 of the Commission's rules. *See* 47 C.F.R. Parts 5, 25, 63. *See also DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13590, ¶ 14; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11536, ¶ 17; *Sprint Nextel-Neztel Partners Order*, 21 FCC Rcd at 7362, ¶ 10; *SBC-ATT Order*, 20 FCC Rcd at 18379, ¶ 171; *Verizon-MCI Order*, 20 FCC Rcd at 18526, ¶ 183; *ALLTEL-Western Wireless Order*, 20 FCC Rcd at 13063-4, ¶ 18; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21546, ¶ 44.

[55] *See* TLD Petition at 17-18.

[56] *See* América Móvil/Verizon Public Interest Statement at 3. América Móvil's subsidiaries are the primary wireline providers in Guatemala, El Salvador, and Nicaragua. Additionally, América Móvil is under common control with Telmex, the largest provider of wireline services in Mexico. *Id.*

[57] *See DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13591, ¶ 16; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11538, ¶ 19; *SBC-ATT Order*, 20 FCC Rcd at 18302, ¶ 18; *Verizon-MCI Order*, 20 FCC Rcd at 18444, ¶ 18; *Sprint-Nextel Order*, 20 FCC Rcd at 13978, ¶ 22; *ALLTEL-Western Wireless Order*, 20 FCC Rcd at 13065, ¶ 20; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21545, ¶ 44; *Verizon/MCI Merger Order*, 20 FCC Rcd at 18444-45, ¶ 18; *SBC/AT&T Merger Order*, 20 FCC Rcd at 18302, ¶ 18.

[58] *See* América Móvil/Verizon Opposition at 20-23 (acknowledging that América Móvil is subject to the market opening provisions of the Act); Board Reply at 6-7 (". . . competitors remain highly dependent on the PRTC network and 'back office' infrastructure."); Centennial Petition at 4-8; TLD Petition at 53-57; WorldNet Petition at 5-6, 14-20 (all seeking to ensure merged entity's compliance with section 251 interconnection duties); TLD Reply at 12-16.

any wireline telecommunications market due to this transfer of control.[59] The evidence shows that there is no overlap in the wireline market between América Móvil and TELPRI.[60] The only existing overlap between América Móvil and TELPRI is América Móvil's limited provision of resold prepaid mobile telephony service in Puerto Rico.[61] Notwithstanding the lack of wireline overlap, commenters raise a variety of issues in this proceeding related to competition in Puerto Rico, which are discussed below.

24. First, commenters argue that the market in Puerto Rico is not currently competitive and that the Commission should deny the transaction because TELPRI has a dominant share of the local wireline market.[62] This is not a valid basis for denying a transaction that results in no increase in concentration in the relevant market.[63] Similarly, we reject commenters' assertions that the transaction eliminates América Móvil as a potential competitor in a market where competition is needed.[64] As described above, América Móvil provides only mobile telephony service currently, not wireline service, and commenters do not claim that América Móvil had plans to enter the wireline market without this transaction.

25. Second, we reject commenters' assertions that we should deny this transaction based on an alleged lack of competition in Puerto Rico that is due to TELPRI's past performance in opening local wireline markets to competitors.[65] Specifically, commenters assert competition in Puerto Rico has been dampened by: (1) past anticompetitive conduct by TELPRI, (2) the fact that TELPRI was not subject to the section 271 process, and (3) the fact that TELPRI was exempt from conditions imposed on Verizon in the *GTE/Bell Atlantic Order*.[66] Consistent with Commission precedent, we decline to address these claims in this proceeding because the concerns raised are not specific to this transaction.[67] Moreover, as we describe below, TELPRI has been, and América Móvil will be, subject to the market-opening requirements in section 251 of the Act.[68] Further, we reject commenters' assertions that TELPRI's past behavior is evidence of the likely future behavior of the proposed transferee, which is not currently involved in the operations of TELPRI.[69]

26. Third, we reject commenters' assertions that América Móvil will cross-subsidize its mobile telephony service activities or wireline business activities, both of which face competitive

[59] *See* América Móvil/Verizon Public Interest Statement at 6-11; América Móvil/Verizon Opposition at 8-13. Consistent with Commission precedent, transactions that do not significantly increase concentration or result in a concentrated market ordinarily require no further competitive analysis. *See Sprint/Nextel Merger Order*, 20 FCC Rcd 13981, ¶ 31; *Cingular/AT&T Wireless Merger Order*, 19 FCC Rcd at 21556-57, ¶ 69.

[60] *See* América Móvil/Verizon Public Interest Statement at 6-11; América Móvil/Verizon Opposition at 8-13.

[61] *See* América Móvil/Verizon Public Interest Statement at 6-11; América Móvil/Verizon Opposition at 8-13.

[62] WorldNet Petition at 5-6; 10-16; TLD Petition at 11-16; Board Reply at 6-7.

[63] *See Sprint/Nextel Merger Order*, 20 FCC Rcd at 13981, ¶ 31; *Cingular/AT&T Wireless Merger Order*, 19 FCC Rcd at 21556-57, ¶ 69.

[64] *See, e.g.*, TLD Petition at 34; WorldNet Reply at 2-3; 10-11.

[65] *See* TLD Petition at 11-12 (stating that 79 percent of postal zip codes in Puerto Rico do not receive any service from a competitive LEC and that the remaining 21 percent receive service from no more than two competitive LECs).

[66] *See, e.*g., WorldNet Petition at 7, 14-19; Centennial Petition at 2, 8.

[67] *Verizon/MCI Order*, 20 FCC Rcd at 18529, ¶ 191.

[68] *See infra* ¶ 29.

[69] Centennial Petition at 4-12; Centennial Reply at 7-8; Centennial Aug. 24 *Ex Parte* Letter at 2-3.

pressure, with its landline residential operations.[70] Commenters present no evidence that América Móvil will have an increased incentive or ability to engage in cross-subsidization as a result of the transaction. Additionally, we reject Centennial's argument that América Móvil's corporate culture will cause it to ignore these and other regulatory obligations that apply to wireline providers.[71] América Móvil is obligated to comply with existing legal and regulatory requirements in the United States and has committed to do so and any allegation that it will not do so is purely speculative. Furthermore, we agree with América Móvil that its compliance with regulatory requirements applicable to its existing U.S.-based investments demonstrates its commitments to abide by its obligations.[72]

27. We reject commenters' assertions that we should reject or condition[73] this transaction based on allegations that TELPRI is not currently fulfilling its obligations under the Telecommunications Act of 1996.[74] To the extent that commenters ask us to impose conditions on retail prices in Puerto Rico, we decline, as the Commission did in the *GTE/PRTC Order*,[75] to impose any additional conditions, other than those already established in the *Puerto Rico Order*, to prevent América Móvil from engaging in price squeeze behavior or cross-subsidization.[76] We agree with América Móvil that commenters proposing rate cap conditions on retail services have failed to demonstrate that the transaction will lead to higher rates or to explain why the existing complaint processes at the Puerto Rico Board would fail to address any speculative future issues.[77]

28. We also conclude that it is not necessary or appropriate for the Commission to impose

[70] Centennial Petition at 12; Centennial Reply at 2.

[71] Centennial Petition at 5-7, 12-13.

[72] América Móvil/Verizon Opposition at 15, 23.

[73] Proposed conditions include: (1) capping residential rates for two years after the completion of the merger; (2) imposing quality of service metrics or performance standards for various retail and wholesale services, including monitoring by an outside entity; and (3) imposing requirements on network access, such as availability and prices of unbundled network elements (UNEs) and special access services. *See* Board Petition, Appendix B; WorldNet Petition at 31-32, Attach. 1.

[74] *See* WorldNet Petition at 7, 14-19; Centennial at 2, 8. *See also* Centennial Aug. 24 *Ex Parte* Letter at 1-2 (stating that TELPRI caused a recent service outage by not programming its switches for automatic re-routing). TELPRI has fixed the re-routing problem and Centennial's complaint is now pending before the Board. *See* Verizon Sept. 1 *Ex Parte* Letter at 1-2. Similarly, we reject WorldNet's arguments that the Commission should require PRTC to allow competitive LECs to interconnect at PRTC tandems, regardless of the traffic exchanged. *See* WorldNet Petition at 33. We note that the Board has a pending proceeding to address this issue. *See* América Móvil/Verizon Opposition at n.42 (citing to a Board proceeding, *Regulation of Transit Traffic Service in Puerto Rico*, No. JRT-2003-SC-2002). As the Commission has found before, commenters have other, more appropriate, avenues for obtaining relief regarding these non-transaction specific issues. *See, e.g., Applications for Consent to the Assignment and/or Transfer of Control of Licenses of Adelphia Communications Corporation to Time Warner Cable Inc. and Comcast*, MB Docket No. 05-192, Memorandum Opinion and Order, FCC 06-105, ¶ 240 (2006).

[75] *Applications of Puerto Rico Telephone Authority, Transferor, and GTE Holdings (Puerto Rico) LLC, Transferee*, Memorandum Opinion and Order, 14 FCC Rcd 3122, 3137, ¶ 33 (citing *Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off the Island of Puerto Rico*, CC Docket No. 96-309, Report and Order, 2 FCC Rcd 6600 (1987) (*Puerto Rico Order*), *on recon.*, 8 FCC Rcd 63 (1992) (*GTE/PRTC Order*).

[76] Centennial Petition at 12-14.

[77] América Móvil/Verizon Opposition at 25.

performance measures on various wholesale and retail services, as some commenters suggest.[78] First, the Board asserts that it remains concerned about improving service quality and that it expects to issue a rulemaking to consider proposed regulations addressing performance metrics for retail local exchange and wholesale interexchange services that will be applicable to all telecommunications providers in Puerto Rico.[79] Commenters also argue that the Commission imposed similar conditions on a previous merger involving Verizon. However, as discussed in the *Verizon/MCI Order*, Verizon and MCI offered voluntary commitments that the Commission accepted because it found those commitments to be in the public interest.[80] Because we find that the proposed transaction is not likely to result in public interest harm, we decline to adopt these or other performance measures in advance of the Board's rulemaking for the reasons discussed above.

29. Furthermore, we conclude that it is not necessary or appropriate to impose on TELPRI and América Móvil the network access and other related conditions that commenters suggest.[81] First, many of the proposed conditions would simply require América Móvil to comply with TELPRI's existing legal obligations.[82] PRTC is subject to sections 251 and 252 of the Act, and to the Commission's implementing rules, like all other incumbent local exchange carriers in the United States.[83] América Móvil will be subject to those existing legal obligations as well as other generally applicable regulatory requirements imposed on incumbent LECs.[84] Moreover, to the extent that certain conditions are being negotiated in ongoing contract disputes or are related to disputes already being addressed by the Board,

[78] *See, e.g.*, WorldNet Petition at 31-32, Attach. 1; Board Petition at 12-13, Appendix B; Sprint Comments at 4-6; Letter from Veronica Ahern, Nixon Peabody LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 20, 2006 (Board December 20 *Ex Parte* Letter at 4.) In addition, several commenters request a condition capping or reducing wholesale special access rates as a condition of the merger. TLD Petition at 57; WorldNet Petition at 34. As with retail rates, these commenters have failed to demonstrate that special access rates will rise as a result of the merger or that they cannot rely on appropriate proceedings at the Commission to address possible changes to special access rates.

[79] Board Petition at 12-13; Board Reply at 8-9.

[80] *Verizon/MCI Order*, 20 FCC Rcd at 18434-36, ¶¶ 1, 3.

[81] Similarly, we reject assertions by commenters that the low and falling penetration rates of local exchange service by TELPRI in Puerto Rico indicate that this merger is not in the public interest because the allegations are not merger-specific. *See, e.g.*, WorldNet Petition at 25 (stating that Puerto Rico has the ninth highest actual cost per loop, and penetration rates in Puerto Rico have regressed to approximately 60.9 percent as of December 2005); CWA Reply at 4-5 (noting that penetration rates have fallen since privatization, when the penetration rate was 74.4 percent).

[82] *See, e.g.*, TLD Petition at 53-58; WorldNet Petition at 31-33, 36 (América Móvil should be required to provide UNEs and resale services), Centennial Petition at 8-11 (requesting monitoring for compliance with the 1996 Act); TLD Petition at 52-58 (América Móvil should provide access to UNEs, interconnection on non-discriminatory terms).

[83] América Móvil/Verizon Opposition at 20. *See also* 47 C.F.R. Part 51; 47 U.S.C. §§ 251, 252; *Local Competition First Report and Order. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 96-98, 95-185, First Report and Order, 11 FCC Rcd 15499 (1996) (*Local Competition First Report and Order*) (subsequent history omitted).

[84] Similarly, we decline to require other conditions or performance standards related to number portability, access line provisioning, or primary interexchange carrier changes. *See* Sprint Comments at 5-6. As discussed, América Móvil will be subject to all of the section 251 requirements imposed on incumbent LECs.

we decline, as we did in the *Verizon/MCI Order*, to address them in this proceeding.[85]

3. Mobile Telephony Market

30. We find, on the record before us, that the proposed transaction will not have an adverse effect on competition in the mobile telephony market. At this time, América Móvil provides only limited mobile telephony telecommunications service in Puerto Rico and that service is provided through its affiliate, TracFone, on a resale basis to approximately 3,300 subscribers in Puerto Rico. América Móvil does not provide its own facilities-based mobile telephony service or hold wireless licenses.[86] The Commission has routinely excluded Mobile Virtual Network Operators ("MVNOs") and resellers from consideration when computing initial measures of market concentration.[87] Moreover, TracFone provides resold mobile telephony service to a small number of subscribers in Puerto Rico. The mobile telephony market in Puerto Rico contains multiple facilities-based providers (*e.g.*, Sprint Nextel, Cingular, Centennial, SunCom, and MoviStar) as well as a host of MVNOs (*e.g.*, Earthlink Wireless, Liberty Wireless, Movida, and Virgin Mobile).[88] América Móvil is not a facilities-based competitor in Puerto Rico, and therefore the acquisition of TELPRI by América Móvil is not likely to have an adverse effect on the number of facilities-based mobile telephony providers in Puerto Rico.

31. TLD alleges that Commission consent to the proposed transaction would leave AT&T with an incentive to engage in anticompetitive strategies to maximize the return on its investments in the *two* largest Puerto Rico mobile telephony operations.[89] TLD bases this claim on AT&T's control of Cingular, which has a reported market share in Puerto Rico of approximately 32 percent,[90] and AT&T's interest in América Móvil, which will (if the subject transaction is completed) control PRTC's approximate 28 percent share of the mobile telephony market.[91] TLD acknowledges that AT&T's equity interest in América Móvil is approximately 7.9 percent, but alleges that this equity interest provides AT&T with "a very sizable financial stake."[92] Specifically, TLD has calculated that AT&T's interests in América Móvil and its affiliate Telmex amount to approximately $6.4 billion.[93] According to TLD, AT&T's investment "can be expected to influence boardroom and competitive behavior by AT&T."[94] TLD also claims that, notwithstanding the level of AT&T's equity investment, AT&T has a significant voice in América Móvil's decision-making, through its ownership of approximately 25 percent of América Móvil's voting shares, its ability to appoint two directors to the board of América Móvil, and its

[85] *See Verizon/MCI Order*, 20 FCC Rcd at 18529, ¶ 191, n.517 (noting that a number of issues raised by WorldNet are subject to pending proceedings).

[86] América Móvil/Verizon Public Interest Statement at 7-8; América Móvil/Verizon Opposition at 9.

[87] *See, e.g.*, *DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13595, ¶ 22; *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11544, ¶ 36; *Sprint-Nextel Order*, 20 FCC Rcd at 13991, ¶ 58; *ALLTEL/Western Wireless Order*, 20 FCC Rcd at 13070-71, ¶¶ 38-39; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21563, ¶ 92.

[88] América Móvil/Verizon Public Interest Statement at 8; América Móvil/Verizon Opposition at 9; TLD Reply at 16 (acknowledging that the wireless market in Puerto Rico is currently competitive).

[89] TLD Petition at 28 (footnote omitted; emphasis in original).

[90] *Id.* at 26. TLD notes that, "in the event the Commission approves AT&T's pending acquisition of BellSouth Telecommunications, Inc. (BellSouth), AT&T will have 100 percent ownership of Cingular." *Id.*

[91] *Id*. at 26-28.

[92] *Id*. at 27.

[93] *Id.*

[94] *Id.*

ability to appoint one member of América Móvil's executive committee.[95]

32. TLD has failed to demonstrate that América Móvil's acquisition of control of TELPRI presents any competitive concerns under our rules and policies. Initially, AT&T's 7.9 percent equity interest in América Móvil does not trigger further competitive analysis. Specifically, we have conducted further competitive review in the event that Applicants to a proposed transaction "would have a 10 percent or greater interest in 70 MHz or more of cellular, PCS, and SMR spectrum."[96] That is not the case here. TLD's assertions that AT&T's financial stake in América Móvil and Telmex combined with its ownership and control of Cingular provide AT&T with the incentive and ability to engage in anticompetitive activities are speculative and lacking factual, economic, or legal support.

33. TLD is alleging that AT&T's minority interest in América Móvil would result, post-transaction, in América Móvil (PRTC) and AT&T (Cingular) engaging in anticompetitive strategies. These allegations appear to be non-specific with regard to the type of anticompetitive strategy in which they would engage. In fact, as noted previously, there are a sufficient number of facilities-based carriers as well as several resellers/MVNOs that would be able to respond to any attempts by PRTC and Cingular to engage in anticompetitive strategies in Puerto Rico. Accordingly, TLC's allegations warrant no further consideration. We conclude that the proposed transfer of control does not raise any competitive issues in the Puerto Rico mobile telephony market.

D. Potential Public Interest Benefits

34. In addition to assessing the potential competitive harms of the proposed transaction, we also consider whether the combination of these companies' operations is likely to generate verifiable, transaction-specific public interest benefits. In doing so, we ask whether the combined entity will be able, and is likely, to pursue business strategies resulting in demonstrable and verifiable benefits that could not be pursued but for the combination.[97] As discussed below, we find that the proposed transaction is likely to generate transaction-specific public interest benefits, although it is difficult to quantify precisely the magnitude of these benefits.

35. The Commission applies a "sliding scale approach" to evaluating benefit claims. Under this sliding scale approach, where potential harms appear "both substantial and likely, the Applicants' demonstration of claimed benefits also must reveal a higher degree of magnitude and likelihood than we would otherwise demand."[98] On the other hand, where potential harms appear to be less likely or less substantial, as in this case, we will accept a lesser showing to approve the transaction.[99] As the Commission has found before, because we do not find substantial public interest harms, we find the benefits that are likely to result from the merger are sufficient for us to find that the merger serves the

[95] *Id*. at 29-32.

[96] *See, e.g., DoCoMo-Guam Cellular Order*, 21 FCC Rcd at 13596, ¶ 23, *ALLTEL-Midwest Wireless Order*, 21 FCC Rcd at 11547, ¶ 39; *Sprint-Nextel Order*, 20 FCC Rcd at 13993-94, ¶¶ 63, 65; *ALLTEL/Western Wireless Order*, 20 FCC Rcd at 13074, ¶ 49; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21568-69, ¶¶ 106, 109.

[97] *Bell Atlantic/GTE Order*, 15 FCC Rcd at 14130, ¶ 209; *SBC/Ameritech Order*, 14 FCC at 14825, ¶ 255; *WorldCom/MCI Order*, 13 FCC Rcd at 18134-35, ¶ 194.

[98] *EchoStar/DirecTV Order*, 17 FCC Rcd at 20631, ¶ 192 (quoting *SBC/Ameritech Order*, 14 FCC Rcd at 14825, ¶ 256); *cf. DOJ/FTC Guidelines* § 4 ("The greater the potential adverse competitive effect of a merger . . . the greater must be cognizable efficiencies in order for the Agency to conclude that the merger will not have an anticompetitive effect in the relevant market. When the potential adverse competitive effect of a merger is likely to be particularly large, extraordinarily great cognizable efficiencies would be necessary to prevent the merger from being anticompetitive.").

[99] *Verizon/MCI Order*, 20 FCC Rcd at 18531, ¶ 196; *SBC/AT&T Order*, 20 FCC Rcd at 18385, ¶ 185.

public interest.[100]

36. We find that the acquisition of PRTC by América Móvil is likely to give rise to some efficiencies and other public interest benefits. As Applicants note, América Móvil has extensive experience in designing products specifically for rural and low income populations.[101] Additionally, América Móvil, through its operations in Latin America, has extensive experience in areas with difficult to serve terrain and dramatic urban/rural differences, similar to conditions found in Puerto Rico.[102] In the 1999 *GTE/PRTC Order*, the Commission accepted GTE's commitment to invest $1 billion over five years to improve service in Puerto Rico.[103] We expect that América Móvil has at least the same level of commitment to service in Puerto Rico. We therefore condition our approval of this transaction on América Móvil investing $1 billion over five years to improve service in Puerto Rico.[104] América Móvil must also provide a written report to the Commission on an annual basis describing the progress it has made in deploying infrastructure used to provide basic telephone and broadband services in Puerto Rico. This report, which shall include quantifiable and verifiable data, shall be due to the Commission on December 31 of each calendar year. In addition, América Móvil must comply with all applicable U.S. laws, regulations, rules and orders, including the obligation to report broadband availability and telephone penetration data.[105]

37. We reject commenters' assertions that, because América Móvil's scope and scale are not as great as Verizon's, we must find that the transfer of PRTC to América Móvil would not be in the public interest.[106] As the Applicants state, Verizon has made the corporate decision to divest itself of its Caribbean and Latin American telecommunications operations.[107] The Applicants have demonstrated that combining América Móvil's operations with PRTC's would result in efficiencies and other public interest benefits that are greater than TELPRI would enjoy on its own.[108]

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[100] *Application of PacifiCorp Holdings, Inc. and Century Telephone Enterprises, Inc. for Consent to Transfer Control of Pacific Telecom, Inc., a Subsidiary of PacifiCorp Holdings, Inc.*, Report No. LB-97-49, Memorandum Opinion and Order, 13 FCC Rcd 8891, 8893-84, ¶ 3 (Wireless Telecom. Bur. 1997) (finding that the public interest standard was met even though the Applicants had not established the existence of substantial pro-competitive efficiency benefits to consumers).

[101] América Móvil/Verizon Public Interest Statement at 5-6.

[102] América Móvil/Verizon Public Interest Statement at 5-6.

[103] *GTE/PRTC Order*, 14 FCC Rcd at 3545-49, ¶¶ 50-59.

[104] Letter from Michael G. Jones, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated March 23, 2007 (March 23 *Ex Parte* Letter). The March 23 *Ex Parte* Letter is attached to this Memorandum Opinion and Order and Declaratory Ruling as Appendix D.

[105] See *Local Competition and Broadband Reporting*, CC Docket No. 99-301, Report and Order, 15 FCC Rcd 7717 (2000); *Local Telephone Competition and Broadband Reporting*, WC Docket No. 04-141, Report and Order, 19 FCC Rcd 22340 (2004) (describing the Commission's formal data collection program (FCC Form 477) to gather standardized information about subscribership to high-speed services, including advanced services, from wireline telephone companies, cable system operators, terrestrial wireless service providers, satellite service providers, and any other facilities-based providers of advanced telecommunications capability).

[106] *See, e.g.*, TLD Petition at 16-17; TLD Reply at 6; Board Petition at 9; Board December 20 *Ex Parte* Letter at 6.

[107] América Móvil/Verizon Opposition at 7.

[108] 47 U.S.C. § 310(d) ("Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 for the permit or license in question; but in acting thereon the Commission (continued….)

38. The Applicants assert that the proposed transaction will expedite the deployment of state-of-the-art mobile telephony service.[109] In particular, the Applicants state that América Móvil is committed "to implementing third-generation (3G) [wireless] networks" as an overlay to pre-existing TDMA and CDMA technologies.[110] According to the Applicants, América Móvil's overlay strategy "allows existing users who may not have the resources or desire to switch to new technology to continue using their existing services, while expanding the range of offerings available to other consumers and providing a cohesive evolutionary path to 3G networks."[111]

39. The Applicants further note that América Móvil brings significant advantages of scale and scope to bear in providing mobile telephony to customers.[112] In this regard, the Applicants point to the fact that América Móvil acquires more than 50 million mobile phone handsets each year, and that this volume of purchases enables América Móvil to achieve favorable prices for such handsets.[113] In addition, the Applicants state that América Móvil is, due to its size, able "to enjoy reduced wireless infrastructure prices."[114] We conclude that the Applicants have provided adequate documentation to support the conclusion that grant of the proposed transfer of control will have tangible public interest benefits.

E. Foreign Ownership of Domestic Incumbent LEC

40. We reject commenters' assertions that América Móvil may be more likely to act anticompetitively in the future simply because it is a foreign-owned company. The Commission has consistently rejected arguments such as these based wholly upon speculation that a party will not comply

(Continued from previous page)
may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.")

[109] América Móvil/Verizon Opposition at 6.

[110] *Id*. at 4. The Applicants acknowledge that TELPRI is already providing 3G service using CDMA/EVDO technology. Letter from Philip L. Verveer, Michael G. Jones, and Daniel K. Alvarez, Counsel for América Móvil, S.A. de C.V., to Marlene Dortch, Secretary, Federal Communications Commission, Attachment, at 2 (filed November 28, 2006) ("Response to WTB Information Request"). América Móvil has no current plans to discontinue this service but does plan to overlay a GSM/EDGE/UMTS/HSPA network over the existing network. *Id*. at 2-3. In addition, in order to improve on the existing network, América Móvil is planning to "increase the number of micro-cells to provide better in-building coverage in major buildings, commercial malls, convention centers, airports and high traffic areas. América Móvil will also add cell sites in some areas not currently covered by wireless services." *Id*. at 3. América Móvil has stated that it plans to invest "approximately $280 million U.S. dollars in the next 3 years to upgrade and maintain the TELPRI wireless infrastructure in Puerto Rico." *Id*. at 4. Additionally, the Applicants state that América Móvil plans to implement a project in Puerto Rico to bring the fiber optic network closer to the home and office buildings to support plans for Triple and Quadruple play offers, as well as many other IP-based services. *Id.* While the Board disputes the extent of América Móvil's commitment to deploy IP infrastructure, we find that América Móvil's statement that it will improve the transport structure for all types of services, including IP services, is a cognizable public interest benefit. *See* Response to WTB Information Request at 4-5; Letter from Veronica Ahern, Nixon Peabody LLP, to Marlene Dortch, Secretary, Federal Communications Commission, dated December 20, 2006 (Board December 20 *Ex Parte* Letter) at 4.

[111] América Móvil/Verizon Public Interest Statement at 4.

[112] América Móvil/Verizon Public Interest Statement at 5.

[113] *Id*.

[114] Response to WTB Information Request at 8.

with its obligations in the future.[115] Similarly, we reject as purely speculative that PRTC could be the target for unrelated suits against América Móvil because all or a substantial portion of América Móvil's assets are not located in the United States.[116] We also note that, in 1997, the United States undertook obligations to allow investment in U.S. common carriers by companies from other countries that are Member of the World Trade Organization (WTO).[117] We find no basis in the record to conclude that América Móvil's ownership of PRTC is likely to result in anticompetitive conduct in the Puerto Rico market. Should we later find any such conduct, we have ample regulatory tools available to use to deal with it.[118]

41. Although we have decided to condition the grant of the Transfer of Control Application for other reasons, we reject commenters' assertions that conditions are necessary because América Móvil's foreign ownership will make it less likely to comply with PRTC's existing regulatory obligations going forward.[119] As we explained above, commenters have not shown any special likelihood that América Móvil will fail to comply with these obligations. As the Commission found in the *GTE/PRTC Order*, to the extent any disputes may arise in the future concerning América Móvil's compliance with these provisions in Puerto Rico, the aggrieved parties will have recourse to a full panoply of legal remedies, including remedies before this Commission (potentially including accelerated enforcement proceedings),[120] the Board, and the courts.[121]

42. Finally, we also note that the Department of Defense, the Department of Justice, the Federal Bureau of Investigation and the Department of Homeland security have approved the transaction subject to certain conditions as discussed below.

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[115] *See, e.g., Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21591 ¶ 181 (dismissing as "unsupported speculation" claims that merged entity will extract discriminatory rates); *Telephone and Data Systems Inc. v. FCC*, 19 F.3d 42, 47-48 (D.C. Cir. 1994) (finding that Appellants' claim that Comcast, after receiving a license transfer, would engage in anticompetitive action to drive down certain revenues of another carrier is nothing more than "unadorned speculation."); *ALLTEL Corporation Petition for Waiver of Section 61.41 of the Commission's Rules and Applications for Transfer of Control*, CCB/CPD 99-1, Memorandum Opinion and Order, 14 FCC Rcd 14191, 14202, ¶ 29 (1999) (rejecting argument that the Commission should deny the requested waiver of its rules because the merged entity may decide to elect price cap regulation in the future).

[116] Board Petition at 11 (stating that América Móvil's addition of a substantial asset in a U.S. jurisdiction creates a magnet for litigation and puts PRTC in jeopardy). Applicants note that Tracfone is already regulated by the Commission with respect to its operations in the U.S. and is in good standing. *See* América Móvil/Verizon Opposition to Petitions at 15, n.25 (citing International Authorization Granted, *Public Notice*, File No. ITC-214-20030401-00162, 18 FCC Rcd 9121 (2003)). Additionally, Applicants note that América Móvil's affiliate, Telmex, is the owner of carriers regulated by the Commission. *Id.* (citing International Authorizations Granted, Public Notice, File No. ITC-214-20030312-00131, 19 FCC Rcd 2136 (2004); International Authorizations Granted, Public Notice, File No. ITC-ASG-20031126-00544, 10 FCC Rcd 2136 (2004)).

[117] *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, IB Docket Nos. 97-142 and 95-22**,** 12 FCC Rcd 23891 (1997) (*Foreign Participation Order*), *Order on Reconsideration*, 15 FCC Rcd 18158 (2000). Paragraphs 25-8 of the *Foreign Participation Order* discuss the U.S. commitments under the GATS. 12 FCC Rcd at 23902-4, ¶¶ 25-8.

[118] *See Foreign Participation Order*, 12 FCC Rcd at 24023, ¶ 295.

[119] *See, e.g.*, Centennial Petition at 6, 10 (asserting that América Móvil, a foreign corporate entity, has not been conditioned by a decade of operating under the 1996 Act).

[120] *See* 47 C.F.R. § 1.730.

[121] *GTE/PRTC Order*, 14 FCC Rcd at 3134, ¶ 28.

F. International Dominant Carrier Regulation

43. In the *Foreign Participation Order*, the Commission established rules to identify instances of potential competitive harm by U.S. market entry of a foreign carrier and to guard against them. Under these rules, we classify a U.S.-international carrier as dominant on a particular route if it is affiliated with a foreign carrier that controls essential facilities on that route.[122] A carrier classified as dominant is subject to dominant carrier safeguards.[123] These safeguards include various accounting, structural separation, settlement rate, and reporting requirements that are designed to address the possibility that a foreign carrier with control over facilities or services that are essential inputs for the provision of U.S. international services could discriminate against rivals of its affiliate (*i.e.*, vertical harms). In the *Foreign Participation Order*, the Commission concluded that these safeguards, along with our settlement rate benchmark condition (now codified as a dominant carrier safeguard[124]) and our no special concessions rule, are sufficient to protect against vertical harms by carriers from WTO Member countries in virtually all circumstances.[125] In the exceptional case, where we conclude that an application poses a very high risk to competition in the U.S. market, where our standard safeguards and additional conditions would be ineffective, we reserve the right to deny the application.[126]

44. We apply the requirements of the *Foreign Participation Order* to América Móvil's acquisition of TELPRI and its U.S. international carrier-subsidiary, PRT LD, as follows. In its International Authorizations Application, América Móvil notes that it is affiliated with foreign carriers in several Latin American countries, including Mexico (Telmex), Brazil (Embratel), Guatemala (Telgua), Nicaragua (Enitel), and El Salvador (CTE).[127] América Móvil states that it will comply with the Commission's dominant carrier rules with respect to the U.S.-Mexico, U.S.-Brazil,[128] U.S.-Guatemala, U.S.-Nicaragua, and U.S.-El Salvador routes.[129] In addition, América Móvil informed the Commission that, on December 1, 2006, América Móvil acquired Verizon's ownership interests in Verizon Dominicana, in the Dominican Republic.[130] América Móvil notes that PRT LD already is classified as a dominant U.S.-international carrier on the U.S.-Dominican Republic route as a result of the common ownership interests that Verizon held, until recently, in PRT LD and Verizon Dominicana. América

[122] *See Foreign Participation Order*, 12 FCC Rcd at 23995-96, ¶¶ 231-33.

[123] *See* 47 C.F.R. § 63.10(c), (e).

[124] 47 C.F.R. § 63.10(e).

[125] *See Foreign Participation Order*, 12 FCC Rcd at 23913-4, ¶¶ 51-52. *See also* 47 C.F.R. §§ 63.10(c), (e) and 63.14 (prohibition on agreeing to accept special concessions).

[126] *Foreign Participation Order*, 12 FCC Rcd at 23913-4, ¶¶ 51-53.

[127] *See* International Authorizations Application at 11. *See* also 47 C.F.R. § 63.09(d), (e) (defining the terms "foreign carrier" and "affiliated").

[128] América Móvil included the U.S.-Brazil route in its answer to Question 17 in its electronic International Authorizations Application, but apparently inadvertently omitted it from its narrative answer to Question 17 in its written International Authorizations Application. América Móvil subsequently corrected the omission in its June 8, 2006, supplement to its application, where if formally stated that it would accept dominant carrier regulation on the U.S-Brazil route. *See* Letter from Michael Jones and Daniel, K. Alvarez, Willkie Farr & Gallagher, LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated June 8, 2006, at 1-2.

[129] International Authorizations Application at 11. América Móvil states that its acceptance of dominant carrier regulation is without prejudice to its right to seek reclassification on these routes in the future and is without prejudice to its position that Telmex is not properly considered dominant under Mexican law.

[130] *See* January 8 Letter.

Móvil acknowledges that PRT LD will retain its affiliation with Verizon Dominicana upon closing of the instant transaction and states that PRT LD will continue to comply with the Commission's dominant carrier rules on the U.S.-Dominican Republic route.[131] Because América Móvil has agreed to accept dominant carrier classification of PRT LD in its provision of U.S-international service on these routes, and in the absence of evidence to demonstrate that it warrants non-dominant treatment, we shall classify PRT LD as a dominant U.S.-international carrier on the five cited routes in its Application, and continue its classification as dominant on the U.S.-Dominican Republic route cited in its January 8 Letter, effective upon consummation of the proposed transaction. We note that PRT LD is also currently classified as dominant in its provision of U.S.-international service on the U.S.-Venezuela and U.S.-Gibraltar routes. PRT LD is affiliated with foreign carriers that possess market power on these routes through Verizon's common control of PRT LD and these foreign carriers. Once Verizon sells its ownership interests in TELPRI, PRT LD will no longer be affiliated with foreign carriers that possess market power on these routes. We therefore reclassify PRT LD as a non-dominant U.S.-international carrier on the U.S.-Venezuela and U.S.-Gibraltar routes, effective upon closing. We find PRT LD will continue to warrant non-dominant classification on all other U.S.-international routes.

45. Accordingly, PRT LD will be classified as a dominant U.S-international carrier on the U.S.-Mexico, U.S.-Brazil, U.S.-Guatemala, U.S.-Nicaragua, U.S.-El Salvador, and U.S.-Dominican Republic routes, effective upon consummation of the proposed transaction. On each of these routes, PRT LD will be required, for the provision of U.S.-international services, to maintain separate books of account from its affiliate; not jointly own transmission or switching facilities with its affiliate; file quarterly reports of traffic and revenue under section 43.61(c) of our rules; file quarterly reports summarizing the provision and maintenance of all basic network facilities and services acquired from its affiliate; and file quarterly circuit status reports.[132] These requirements are designed to make a carrier's interactions with its affiliated foreign carriers transparent and thereby guard against discriminatory conduct.[133] Additionally, PRT LD's provision of switched facilities-based service on the five cited routes is subject to the condition that the settlement rates its affiliates charge U.S.-international carriers to terminate traffic are at or below the Commission's relevant benchmark rate.[134] We believe that imposition of dominant carrier safeguards, along with our no special concessions rule, are sufficient to prevent vertical harms once control of PRT LD has been acquired by América Móvil. In addition, some of the dominant carrier safeguards—such as the requirement to maintain separate books of account and the prohibition on joint ownership of facilities—provide additional confidence that América Móvil's foreign carrier affiliates in the cited markets will not have the ability to engage in cost misallocation with respect to U.S.-international services provided by PRT LD. We therefore find that the acquisition of TELPRI by América Móvil will not create risks to competition that would require the imposition of additional competitive safeguards. [135]

G. Section 310 Foreign Ownership Issues

46. América Móvil, the transferee, requests a declaratory ruling that the public interest would be served by permitting up to 100 percent indirect foreign ownership of post-transaction PRTC, a Title

[131] *See* January 8 Letter at n.1. *See also* International Authorizations Application at 10 n.10.

[132] *See* 47 C.F.R. § 63.10(c).

[133] *See Foreign Participation Order*, 12 FCC Rcd at 23991-24022, ¶¶ 221-92.

[134] *See* 47 C.F.R. § 63.10(e).

[135] *See Foreign Participation Order*, 12 FCC Rcd. at 23913, ¶ 51.

III common carrier radio licensee, pursuant to section 310(b)(4) of the Act.[136] América Móvil also requests that the ruling allow the individuals and entities that already exercise control of América Móvil to engage in transactions that may increase their ownership interests in it above current levels. We examine the foreign ownership interests that will be held indirectly in PRTC through its controlling U.S. parent company, TELPRI, pursuant to our public interest analysis under sections 310(b)(4) and 310(d) of the Act and the Commission's foreign ownership policies adopted in the *Foreign Participation Order*.[137] As part of that analysis, we consider below any national security, law enforcement, foreign policy, or trade policy concerns raised by the foreign investment.[138] Relying on Commission precedent, we find that the proposed transfer of control does not raise any issues under sections 310(a) and 310(b)(1)-(b)(3) of the Act.[139] Our analysis focuses on issues raised under section 310(b)(4). Based on the record before us, we conclude, for the reasons stated below, and subject to certain conditions specified below, that it would not serve the public interest to deny consent to the proposed transaction because of the indirect foreign equity and voting interests that will be held in PRTC through its U.S. parent, TELPRI.

1. Legal Standard for Foreign Ownership of Radio Licensees

47. Section 310(b)(4) of the Act establishes a 25 percent benchmark for investment by foreign individuals, corporations, and governments in entities that control U.S. common carrier radio licensees. This section also grants the Commission discretion to allow higher levels of foreign ownership if it determines that such ownership is not inconsistent with the public interest.[140]

48. The calculation of foreign ownership interests under section 310(b)(4) is a two-pronged analysis in which the Commission examines separately the equity interests and the voting interests in the licensee's direct or indirect parent.[141] The Commission calculates the equity interest of each foreign investor in the parent and then aggregates these interests to determine whether the sum of the foreign equity interests exceeds the statutory benchmark. Similarly, the Commission calculates the voting

[136] Transaction Overview at 6.

[137] 47 U.S.C. § 310(b)(4), (d).

[138] The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing foreign investment pursuant to sections 310(b)(4) and 310(d). *Foreign Participation Order*, 12 FCC Rcd at 23918-21, ¶¶ 59-66. *See also infra* Section III.H. (National Security, Law Enforcement, Foreign Policy, and Trade Concerns).

[139] Section 310(a) of the Act prohibits any radio license from being "granted to or held by" a foreign government or its representative. *See* 47 U.S.C. § 310(a). In this case, no foreign government or its representative holds any of the radio licenses. Section 310(b)(1)-(2) of the Act prohibits common carrier, broadcast and aeronautical fixed or aeronautical en route radio licenses from being "granted to or held by" aliens, or their representatives, or foreign corporations. *See* 47 U.S.C. § 310(b)(1)-(2). We find that no alien, representative, or foreign corporation holds any of the common carrier licenses in this case. Accordingly, we find that the proposed transaction is not inconsistent with the foreign ownership provisions of section 310(a) or 310(b) (1)-(2) of the Act. *See Deutsche Telekom/VoiceStream Order*, 16 FCC Rcd at 9804-09 ¶¶ 38-48. Additionally, because the foreign investment in PRTC is held through a controlling U.S. parent, TELPRI, the proposed transaction does not trigger section 310(b)(3) of the Act, which places a 20 percent limit on alien, foreign corporate or foreign government ownership of entities that themselves hold common carrier, broadcast and aeronautical fixed or en route Title III licenses. *Compare* 47 U.S.C. §310(b)(3) with §310(b)(4). *See* Request for Declaratory Ruling, *Wilner & Scheiner I*, 103 F.C.C. 2d at 522, ¶ 19.

[140] 47 U.S.C. § 310(b)(4).

[141] *See BBC License Subsidiary L.P.*, Memorandum Opinion and Order, 10 FCC Rcd 10968, 10973 ¶ 22 (1995) (*BBC License Subsidiary*).

interest of each foreign investor in the parent and aggregates these voting interests.[142] The presence of aggregated alien equity or voting interests in a common carrier licensee's parent in excess of 25 percent triggers the applicability of section 310(b)(4)'s statutory benchmark.[143] Once the benchmark is triggered, section 310(b)(4) directs the Commission to determine whether the "public interest will be served by the refusal or revocation of such license."

49. In the *Foreign Participation Order*, the Commission concluded that the public interest would be served by permitting greater investment by individuals or entities from WTO Member countries in U.S. common carrier and aeronautical fixed and en route radio licensees.[144] Therefore, with respect to indirect foreign investment from WTO Members, the Commission replaced its "effective competitive opportunities," or "ECO," test with a rebuttable presumption that such investment generally raises no competitive concerns.[145] In evaluating an applicant's request for approval of foreign ownership interests under section 310(b)(4), the Commission uses a "principal place of business" test to determine the nationality or "home market" of foreign investors.[146]

50. In light of Commission policies adopted in the *Foreign Participation Order*, we begin our evaluation of PRTC's indirect foreign ownership under section 310(b)(4) by calculating the foreign equity and voting interests that will be held in PRTC's U.S. parent, TELPRI, upon consummation of the proposed transaction. We then determine whether these foreign interests properly are ascribed to individuals or entities that are citizens of, or have their principal places of business in, WTO Member countries. The Commission stated, in the *Foreign Participation Order*, that it will deny an application if it finds that more than 25 percent of the ownership of an entity that controls a common carrier radio licensee is attributable to parties whose principal place(s) of business are in non-WTO Member countries that do not offer effective competitive opportunities to U.S. investors in the particular service sector in which the applicant seeks to compete in the U.S. market, unless other public interest considerations outweigh that finding.[147]

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[142] *See id.* at 10972, 10973-74, ¶¶ 20, 22-25.

[143] *See id.* at 10973-74, ¶ 25.

[144] *Foreign Participation Order*, 12 FCC Rcd at 23896, 23913, 23940, ¶¶ 9, 50, 111-112.

[145] *Id*.

[146] To determine a foreign entity's home market for purposes of the public interest determination under section 310(b)(4), the Commission will identify and balance the following factors: (1) the country of a foreign entity's incorporation, organization or charter, (2) the nationality of all investment principals, officers, and directors, (3) the country in which the world headquarters is located, (4) the country in which the majority of the tangible property, including production, transmission, billing, information, and control facilities, is located, and (5) the country from which the foreign entity derives the greatest sales and revenues from its operations. *Foreign Participation Order*, 12 FCC Rcd at 23941, ¶ 116 (citing *Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order, 11 FCC Rcd 3873, 3951, ¶ 207 (1995)). For examples of cases applying the five-factor "principal place of business" test, *see Lockheed Martin Global Telecommunications, Comsat Corporation, and Comsat General Corporation, Assignor, and Telenor Satellite Mobile Services, Inc., and Telenor Satellite, Inc., Assignee, Applications for Assignment of Section 214 Authorizations, Private Land Mobile Radio Licenses, Experimental Licenses, and Earth Station Licenses and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act*, Order and Authorization, 16 FCC Rcd 22897 (2001), *erratum*, 17 FCC Rcd 2147 (Int'l Bur. 2002), *recon. denied*, 17 FCC Rcd 14030 (2002) (*Telenor Order*); *Space Station System Licensee, Inc., Assignor, and Iridium Constellation LLC, Assignee, et al.*, Memorandum Opinion, Order and Authorization, 17 FCC Rcd 2271 (Int'l Bur. 2002).

[147] *See Foreign Participation Order*, 12 FCC Rcd at 23946, ¶ 131.

51. In calculating attributable alien equity interests in a parent company, the Commission uses a multiplier to dilute the percentage of each investor's equity interest in the parent company when those interests are held through intervening companies. The multiplier is applied to each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier.[148] By contrast, in calculating alien voting interests in a parent company, the multiplier is not applied to any link in the vertical ownership chain that constitutes a controlling interest in the company positioned in the next lower tier.[149] When evaluating foreign voting interests in the U.S. parent company of a common carrier licensee, it is possible that multiple investors will be treated as holding the same voting interest in a U.S. parent company where the investment is held through multiple intervening holding companies. Our purpose in identifying the citizenship of the specific individuals or entities that hold these interests is not to increase the aggregate level of foreign investment, but rather to determine whether any particular interest that a foreign investor proposes to acquire raises potential risks to competition or other public interest concerns, such as national security or law enforcement concerns.[150]

2. Attribution of Foreign Ownership Interests

52. As indicated in Section II.C above, upon consummation of the proposed transaction, Sercotel will own indirectly, through its direct and indirect subsidiaries Telcel and Tenedora, up to 100 percent of the issued and outstanding shares of common stock of TELPRI, constituting up to 100 percent of the equity and voting interests in TELPRI.[151] Because América Móvil requests that we approve Sercotel's acquisition of up to 100 percent of TELPRI, we assume, for purposes of our foreign ownership analysis, that Sercotel will in fact acquire indirectly 100 percent of the equity and voting interests in TELPRI. Sercotel is a holding company organized under the laws of Mexico and is wholly owned, directly and indirectly, by América Móvil.[152] Sercotel will acquire TELPRI's shares through Sercotel's direct and indirect subsidiaries, Telcel and Tenedora, with Tenedora holding the direct equity and voting interests in TELPRI. The record supports a finding that Sercotel, Telcel and Tenedora have their principal places of business in Mexico, a WTO Member country.[153] As explained below, Mexico is also the principal place of business of Sercotel's parent company, América Móvil.[154]

53. We next calculate the foreign equity and voting interests that will be held indirectly in TELPRI by Sercotel's parent company, América Móvil. Because América Móvil holds 100 percent of the equity and voting interests in Sercotel, we find that América Móvil, a Mexican corporation, will hold indirectly 100 percent of the equity and voting interests in TELPRI.[155] Based on the information in the

[148] *See BBC License Subsidiary*, 10 FCC Rcd at 10973-74, ¶¶ 24-25.

[149] *See id.* at 10973, ¶ 23; *see also Wilner & Scheiner I*, 103 F.C.C. 2d at 522, ¶ 19.

[150] *See Foreign Participation Order*, 12 FCC Rcd at 23940-41, ¶¶ 111-15.

[151] *See supra* ¶¶ 9-10.

[152] América Móvil holds a less than 1 percent interest in Sercotel through AMX Tenedora, S.A. de C.V. Letter from Michael Jones, Willkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission, dated December 14, 2006 at 2. *See also supra* ¶ 9, n.9.

[153] *See* November 1 Letter at 2 (noting that more of Sercotel's revenues derive from its business in Mexico than from its business in any other country). *See also supra* note 8 and accompanying text.

[154] *See infra* ¶ 53.

[155] Consistent with our foreign ownership case precedent discussed in Section III.G.2. above, América Móvil's equity and voting interests in Sercotel flow through in their entirety to TELPRI because Sercotel will hold indirectly up to 100 percent of the equity and voting interests in TELPRI. *See supra* ¶ 10.

record, we find that these interests are properly ascribed to Mexico, where América Móvil has its principal place of business. América Móvil is a publicly traded corporation that is organized and headquartered in Mexico.[156] A majority of its directors and officers are Mexican nationals,[157] and its businesses in Mexico account for more revenue than its businesses from any other country.[158] The majority of the shares of América Móvil are held by Mr. Carlos Slim Helú and certain members of his immediate family (collectively, the Slim family), all of whom are Mexican citizens.[159] Based on our review of America Movil's Letter submissions, we find that Mr. Slim exerts significant influence over the election of América Móvil's Board of Directors, and the outcome of any actions requiring the vote of América Móvil's shareholders.[160] Accordingly, we find that América Móvil's proposed 100 percent indirect equity and voting interests in TELPRI are properly ascribed to Mexico, a WTO Member country.

54. We next consider the foreign equity and voting interests that will be held indirectly in TELPRI through América Móvil.[161] We calculate that the Slim family, all of whom are Mexican citizens, owns 32.33 percent of América Móvil's total capital stock and will therefore hold indirectly 32.33 percent of the equity interests in TELPRI.[162] We calculate that SBCI and other Mexican investors hold 8.13 and 2.00 percent, respectively, of América Móvil's total capital stock and therefore will hold the same percentage equity interests in TELPRI.[163] We find that the aggregate 42.46 percent equity interest that will be held indirectly in TELPRI by the Slim family, SBCI and other known Mexican investors, is properly ascribed to the United States and Mexico, a WTO Member country. The remaining 57.54 percent of América Móvil's capital stock is held by other public shareholders. The

[156] América Móvil's capital stock is traded primarily on the Mexican Stock Exchange and also on stock exchanges in the United States and Europe. *See* November 1 Letter at 2.

[157] Pursuant to América Móvil's bylaws, a majority of the directors and a majority of the alternate directors must be Mexican citizens and elected by Mexican stockholders. *See* Transfer of Control Application at 9, n.9.

[158] *See* November 1 Letter at 2-4.

[159] *See* Transfer of Control Application at 9.

[160] *See* November 1 Letter at 5. *See also* February 26 Letter at 2. Prior to the merger, América Móvil represented in its November 1 Letter that Mr. Slim "exerts significant influence over the election of América Móvil's Board of Directors, and the outcome of any actions requiring the vote of América Móvil shareholders." November. 1 Letter at 5. Following the merger, América Móvil represented in its February 26 Letter that the merger "does not involve a substantial change of control of América Móvil, nor has the ownership structure changed in any significant way." February 26 Letter at 2. Thus, we find it reasonable to conclude that, following the merger, Mr. Slim retains the same level of influence over América Móvil as he had prior to the merger. *Id.* at 2.

[161] Consistent with our foreign ownership case precedent discussed in Section III.G.2. above, all foreign equity and voting interests in América Móvil flow through in their entirety to TELPRI because América Móvil wholly owns Sercotel, which, in turn, will hold indirectly up to 100 percent of the equity and voting interests in TELPRI. *See supra* ¶ 10.

[162] *See* February 26 Letter at 3. We calculate, based on post-merger capital structure information provided by América Móvil, that the Slim family, through interests held in Class AA and Class L shares, holds approximately 32.33 percent of the total capital stock of América Móvil. We derive this amount by dividing the aggregate number of Class AA and Class L shares held by the Slim family by the total number of issued and outstanding shares of América Móvil stock.

[163] *See* February 26 Letter at 3. We calculate SBCI's 8.13 percent equity interest percent in América Móvil by dividing the total number of Class AA shares owned by SBCI by the total number of issued and outstanding shares of América Móvil stock. The 2.00 percent equity interest of other Mexican investors was calculated in the same way.

citizenship or principal places of business of these public shareholders are not identified sufficiently for the record to allow us to find that their equity interests constitute investment from WTO Member countries.[164] We therefore treat this 57.54 percent indirect equity interest in TELPRI as non-WTO ownership for purposes of our foreign ownership analysis.[165]

55. Having calculated the equity interests, we consider the voting interests that will be held indirectly in TELPRI through América Móvil. We analyze the foreign voting interests that will be held indirectly in TELPRI through América Móvil on two levels because of restrictions on the voting rights of certain shareholders. The Transfer of Control Application explains that América Móvil's shares consist of three classes of stock – Class AA, Class A, and Class L shares. Two of these classes, the AA shares and the A shares, are "full voting shares."[166] Class AA and Class A shareholders have the right to elect a majority of América Móvil's board of directors and vote on all matters that require a vote of its shareholders. Class L shareholders have limited voting rights. They have the right to elect two of the 11 members of América Móvil's board of directors and the corresponding alternate directors.[167] The L shareholders otherwise have the right to vote only on matters related to major corporate decisions that fundamentally affect their interests as shareholders.[168] Because the Class L shareholders have minority representation on América Móvil's board of directors and the right to block as a group certain fundamental corporate actions, we find that they have the right to participate in, and therefore may have some degree of influence over, the management of América Móvil. We therefore calculate first the voting interests that will be held indirectly in TELPRI by América Móvil's Class AA and Class A shareholders. The second calculation will include shares held by all shareholders, Class AA, Class A and Class L shares.

56. We find, based on the record, that the Slim family holds 66.21 percent of the full voting shares of América Móvil.[169] We also find that, as the holder of 66.21 percent of América Móvil's full

[164] *See infra* ¶ 60.

[165] *See, e.g.*, Foreign Ownership Guidelines, 19 FCC Rcd 22612 (2004), erratum, 21 FCC Rcd 6484 (2006) (*Foreign Ownership Guidelines*).

[166] *See* November 1 Letter at 2-3. *See also* November 1 Letter at 2-3 and February 26 Letter at 3-4.

[167] According to the Transfer of Control Application, América Móvil's bylaws call for the board of directors to be composed of between five and 20 directors, a majority of whom must be Mexican citizens and elected by Mexican shareholders. In order to effectuate this provision, the bylaws prohibit non-Mexican entities from holding or acquiring AA shares, which elect a majority of the board, except through a trust that effectively neutralizes their votes in accordance with Mexican law. *See* Transfer of Control Application at 7-8 n.7; November 1 Letter at 2 n.7. América Móvil further states that holders of L shares may elect no more than two members of América Móvil's Board, regardless of the size of the Board. December 14 Letter at 3. The bylaws additionally provide that AA shares must never represent less than 20 percent of América Móvil's capital stock; AA shares must always represent at least 51 percent of its full voting shares; and AA and A shares may be exchanged at the option of the holder for one L share. February 26 Letter at 3 n.6.

[168] These matters are as follows: the transformation of América Móvil from one type of company to another; any merger of América Móvil; the extension of América Móvil's corporate life: América Móvil's voluntary dissolution; a change in América Móvil's corporate purpose; a change in América Móvil's state of incorporation; removal of América Móvil's shares from listing on the Mexican stock exchange or any foreign stock exchange; and any action that would prejudice the rights of holders of L shares. *See* November 1 Letter at 3. A resolution on any of these specified matters requires the affirmative vote of both a majority of all outstanding shares and a majority of the AA shares and A shares voting together. *See* November 1 Letter at 3 and February 26 Letter at 3.

[169] *See* November 1 Letter at 2-3 and February 26 Letter at 2-3. We calculate, based on post-merger capital structure information provided by América Móvil, that the Slim family, through interests held in Class AA shares, (continued….)

voting shares, the Slim Family has the right to elect a majority of América Móvil's board of directors and to determine the outcome of other actions requiring a vote of América Móvil shareholders, except with respect to corporate transactions that affect fundamental shareholder rights.[170] This 66.21 percent full voting (and controlling) interest flows through in its entirety to TELPRI.[171] An additional 5.74 percent of the full voting shares are known to be held by other Mexican investors,[172] and their interests also flow through entirely to TELPRI. SBCI holds 23.40 percent of the full voting shares through a trust that effectively neutralizes its vote.[173] Based on this information, and including SBCI's shares held in trust,[174] we calculate that Mexican citizens control 95.35 percent of América Móvil's full voting shares.

57. Our second calculation of foreign voting interests in América Móvil, which includes all shares of its capital stock, results in far fewer shares being identified in the record as held by investors that are citizens of, or have their principal places of business in, Mexico. Thus, with the exception of

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holds approximately 66.21 percent of América Móvil's full voting shares. We derive this figure by dividing the total number of Class AA shares held by the Slim family by the total number of issued and outstanding shares of América Móvil stock.

[170] *See supra* ¶ 55. Prior to the merger of América Móvil with América Telecom, América Telecom held 66.29 percent of América Móvil's full voting shares and the Slim family, in turn, held 82 percent of América Telecom's total capital stock (which consisted of one class of voting stock). *See* Nov. 1 Letter at 4-5. The 66.21 percent full voting interest that we calculate the Slim family now holds in América Móvil as a result of the merger is nearly identical to the 66.29 percent full voting interest that América Telecom held in América Móvil prior to the merger. Thus, we find it reasonable to conclude that the Slim family now holds approximately the same voting rights in América Móvil as América Telecom held before the merger, including the ability to "elect a majority of the members of América Móvil's board of directors, and to determine the outcome of other actions requiring a vote of América Móvil's shareholders, except in the very limited cases that require a vote of the holders of L shares." November 1 Letter at 4. *See also* February 26 Letter at 2 (stating that the merger "does not involve a substantial change of control of América Móvil, nor has the ownership structure changed in any significant way").

[171] As explained in Section III.G.1. above, in calculating foreign voting interests, we do not apply the multiplier to any link in the vertical ownership chain that constitutes a controlling interest in the company positioned in the next lower tier. Thus, the 66.21 percent full voting interest that the Slim family holds in América Móvil flows through in its entirety to TELPRI because América Móvil will hold indirectly up to 100 percent of the voting interests (through its wholly-owned and controlled subsidiary Sercotel) in TELPRI. *See supra* ¶ 10.

[172] *See* February 26 Letter at 2-3. We calculate, based on the post-merger capital structure information provided by América Móvil, that other Mexican investors, through interests held in Class AA shares, hold approximately 5.74 percent of América Móvil's full voting shares. We derive this figure by dividing the total number of Class AA shares held by other Mexican investors by the total number of América Móvil's issued and outstanding shares of Class AA and Class A stock, which together constitute its full voting shares.

[173] *See* February 26 Letter at 3. We calculate the full voting interest of SBCI using the same methodology we used to calculate the respective full voting interests of the Slim family and other Mexican investors. *See supra* n.169 and n.170. SBCI holds its capital stock interest in América Móvil in the form of Class AA shares through a trust that votes the shares in the same manner as the majority of the outstanding AA shares. *See* February 26 Letter at 3, n.7.

[174] We note that SBCI has the right, however, to name two members of América Móvil's 11 board members pursuant to an agreement to which American Telecom and SBCI are parties, and there is nothing in América Móvil's bylaws or other governing documents that limits the matters on which the directors named by SBCI can participate. SBCI therefore has the right to minority representation on América Móvil's board of directors. *See* November 1 Letter at 4. *See also id*. at 4 n.14 (describing limitations on board composition under a letter of assurance provided by América Móvil to the Department of Justice) and February 26 Letter at 3.

shares identified as held by SBCI and other investors known to be Mexican, the remaining 57.54 percent of América Móvil's voting interests are held by public shareholders. The citizenship or principal places of business of these public shareholders are not identified sufficiently for the record to allow us to find that their voting interests constitute investment from WTO Member countries.[175] We therefore treat this 57.54 percent indirect voting interest in TELPRI as non-WTO ownership for purposes of our foreign ownership analysis.

58. We are therefore unable to determine on the basis of the record that foreign equity and voting interests that will be held indirectly in TELPRI by non-WTO investors acquiring shares in América Móvil on U.S. and foreign public markets will not exceed 25 percent. América Móvil has not identified the citizenship or principal places of business of public investors that hold, in the aggregate, 57.54 percent of the capital stock and 4.65 percent of the full voting interest of América Móvil.[176] All of these unidentified foreign equity and voting interests flow through in their entirety to TELPRI. It is the Commission's policy to treat unidentified foreign ownership as non-WTO ownership.[177] América Móvil suggests that the degree of ownership identified in the record is quite large for a publicly traded company, particularly as compared to most of the Commission's large publicly traded U.S. licensees.[178] América Móvil contends in its November 1, 2006 Letter that there is no need for it to inquire further into the nationality of the holders of its capital stock, such as a survey of its shareholders, because "the company is primarily owned and undoubtedly controlled by Mexican investors."[179] América Móvil does not, however, go so far as to represent that its statement is so. The Commission has never held that a common carrier radio licensee or applicant (or its direct or indirect controlling U.S. parent company) is relieved of the obligation to ascertain and periodically survey the citizenship of its direct or indirect shareholders under section 310(b) of the Act simply because it has determined that it is primarily owned and controlled by U.S. citizens or citizens of another WTO Member country. The obligation to monitor its shareholdings applies regardless of whether the ultimate controlling parent of the licensee is organized in the United States or, in the case of a common carrier licensee, in another WTO Member country where the ultimate parent has its principal place of business and for which the licensee has received a foreign ownership ruling under section 310(b)(4).[180] In addition, the obligation applies to all stockholders not simply the controlling block.

59. Further, we have considered the information that América Móvil has provided in its February 26 Letter.[181] Relying on that information, however, would require the Commission to infer that

[175] *See infra* ¶ 60.

[176] Of the 57.54 percent unidentified total capital stock, 55.92 percent constitutes limited voting stock and 1.62 percent constitutes full voting stock. The 55.92 percent limited voting stock is held by Class L shareholders. *See* February 26 Letter at 4. The 1.62 percent full voting stock is held by Class A shareholders. *See id.* at 3-4.

[177] *See Foreign Ownership Guidelines*, 19 FCC Rcd at 22623.

[178] *See* November 1 Letter at 3-4.

[179] *Id*. at 5. América Móvil finds that, "[e]ven under the best of circumstances, such surveys are very costly to the party undertaking the survey, and their results tend to be unreliable for a variety of reasons." *Id*.

[180] *See, e.g., Telenor Order*, 16 FCC Rcd at 22897, 22913, ¶ 36 (approving under section 310(b)(4) up to 100 percent indirect foreign ownership of Telenor Satellite by Telenor ASA and its Norwegian shareholders; and allowing an additional aggregate 25 percent indirect equity and/or voting interests from other unnamed non-U.S. investors, including non-Norwegians who may own Telenor ASA shares, subject to certain conditions).

[181] *See* February 26 Letter at 5. The letter informed the Commission about the merger of América Telecom into América Móvil and provided the Commission with additional information about América Móvil's post-merger ownership structure and shareholders. Verizon submitted similar information about América Móvil in an *ex parte* (continued….)

the citizenship of the company's beneficial owners typically will correspond to: (1) the registered addresses of stockholders that have taken possession of their stock certificates; and (2) the addresses of custodian banks and brokers that hold shares for the more numerous owners that have chosen not to possess the stock certificates. América Móvil also states that, because the great majority of countries are WTO Members, it is highly reasonable to infer that companies with foreign shareholders qualify for the rebuttable presumption in favor of entry.[182] Although we recognize América Móvil's concerns as to the difficulties associated with being able to provide reliable identification of the beneficial owners where a company's equity is publicly traded and widely held, nevertheless, we decline, based on the record in this proceeding, to change the Commission's precedent by accepting street addresses of stockholders and banks as an indicator of citizenship of the beneficial owners. We find that, on balance and subject to the additional conditions set forth below, based on the particular facts of this transaction, the public interest does warrant grant of this transaction.

60. As discussed above, the Commission adopted a rebuttable presumption in the *Foreign Participation Order* that indirect foreign investment in common carrier radio licensees from WTO Member countries generally raises no competitive concerns.[183] At the same time, the Commission acknowledged that an applicant or licensee could have indirect foreign ownership from both WTO and non-WTO Member country investors.[184] The Commission stated that, in such circumstances, it would deny the application if it finds that more than 25 percent of the ownership of an entity that controls a common carrier radio licensee is attributable to parties whose principal place(s) of business are in non-WTO Member countries that do not offer effective competitive opportunities to U.S. investors in the particular service sector in which the applicant seeks to compete in the U.S. market, unless other public interest considerations outweigh that finding.[185]

61. We are concerned that the Commission's policy goals in the *Foreign Participation Order* to increase competition and open foreign markets may be eroded by allowing entry by companies such as América Móvil, which may have equity and voting interests attributable to investors from non-WTO Member countries and which appear to have no internal procedures in place to monitor the citizenship of investors acquiring shares in the public markets. On balance, however, we conclude that other public interest considerations weigh in favor of approving, with conditions, the Transfer of Control Application and the proposed foreign ownership of TELPRI and its subsidiary PRTC. The conditions specified in paragraph 65 below are designed to provide a higher level of confidence that América Móvil will continue to have its principal place of business in Mexico or another WTO Member country and be managed by Mexican or other WTO Member citizens, and limit non-WTO investment to no more than 25 percent of its equity and voting interest.

62. A significant factor in our decision to approve with conditions, under section 310(b)(4), the proposed foreign ownership of TELPRI is our finding that América Móvil (through Sercotel) is the entity whose foreign entry we are asked to approve under the *Foreign Participation Order's* "open

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letter. *See* Letter from Nancy J. Victory, Wiley Rein, to Marlene Dortch, Secretary, Federal Communications Commission, dated February 26, 2007 (Verizon February 26 Letter).

[182] *See* February 26 Letter at 5 n.12.

[183] *See supra* ¶ 49.

[184] *See Foreign Participation Order*, 12 FCC Rcd at 23940, ¶ 112 n.225.

[185] *See Foreign Participation Order*, 12 FCC Rcd at 23946, ¶ 131 ("We conclude that our goals of increasing competition and opening foreign markets would continue to be served by opening the U.S. market to investors from non-WTO Member countries only to the extent that the investors' home markets are open to U.S. investors.")

entry" standard for applicants from WTO Member countries. The record demonstrates that América Móvil (as well as Sercotel, Telcel and Tenedora) have their principal places of business in Mexico, a WTO Member country. We calculate that shares held in América Móvil by Mexican citizens (including SBCI shares held in trust) constitute 95.35 percent of América Móvil's full voting shares and that the majority interest in these shares is held by Mr. Carlos Slim Helú and certain members of his immediate family, all of whom are Mexican citizens. The controlling interest in these shares is held by the Slim family. We also find, based on the representations made by América Móvil, that Mr. Slim exercises control of América Móvil.[186]

63. We are also persuaded to approve the proposed foreign ownership of TELPRI, conditioned as specified below, because the unidentified foreign equity and voting interests in TELPRI will consist largely of América Móvil's Class L shareholders. These shareholders have the right to elect only two members (representing a minority) of América Móvil's board of directors, and have the right as a group to block only certain significant corporate actions to protect their investments. We thus find that the corporate governance of América Móvil is structured to prevent these shareholders from dominating the management of corporate affairs and to minimize their influence. While these shareholders as a group represent more than half the equity investment in América Móvil, the limits placed on their ability to influence management mitigates our concern in this case with the level of unidentified non-U.S., non-Mexican foreign ownership.

64. Also determinative to our decision to approve the proposed foreign ownership of TELRPI is our finding, in Section III.C. above, that the proposed transaction is unlikely to harm competition in U.S. markets.[187] We are classifying TELPRI's long distance subsidiary PRT LD as a "dominant" international carrier, effective upon closing, on routes between the United States and foreign countries where PRT LD will become affiliated with foreign carriers that possess market power.[188] We also determine in Section III.H. below that the Executive Branch Agreement among DOJ, FBI and DHS and the Applicants and the Commitment Letter addresses any national security, law enforcement and public safety concerns.[189]

65. We impose several conditions that are intended to provide us a high level of confidence that América Móvil will continue to have its principal place of business in Mexico or another WTO Member country and be managed by Mexican or other WTO Member citizens. Specifically, we impose the following conditions on our grant of the Transfer of Control Application and the request for approval of TELPRI's post-transaction foreign ownership. We require that América Móvil obtain prior Commission approval, pursuant to section 310(b)(4), before the company goes private, or otherwise issues or causes to be issued, directly or indirectly, without limitation, as a result of any share repurchase, redemption or other recapitalization, securities that would represent more than 5 percent of its equity or voting interests (whether full or limited voting interests). We also require América Móvil to notify the Commission within 10 days of notification to the company, pursuant to U.S. securities or similar foreign laws or regulations, or based on information otherwise received by the company, that a

[186] *See* November 1 Letter at 5 ("... Mr. Slim exerts significant influence over the election of América Móvil's Board of Directors, and the outcome of any actions requiring the vote of América Móvil's shareholders."). *See also* February 26 Letter at 2 (the merger between América Móvil and América Telecom has been completed and "does not involve a substantial change in control of América Móvil, nor has the ownership structure changed in any significant way.").

[187] *See supra* ¶¶ 22-33.

[188] *See supra* Section III.F.

[189] *See infra* ¶¶ 69-72.

person[190] has acquired through one transaction or a series of transactions over time, directly or indirectly, the beneficial ownership of securities that would represent more than 5 percent of any class of equity security of the company. América Móvil shall include in such notifications, addressed to the Chief, International Bureau, the identity and citizenship of such person and shall specify the share class acquired and whether and, if so, how the voting rights of such class has changed since adoption of this order.

66. The purpose of requiring prior approval of the specified transactions under section 310(b)(4) is to allow the Commission to identify and disapprove potential conveyances of significant share ownership to individuals or entities from non-WTO Member countries. Notification of the acquisition of equity securities in the public markets in excess of 5 percent will not provide us with a ready means to require repurchase of interests already acquired by non-WTO Member country investors, but will provide information as to whether revocation or conditions on future common carrier radio licenses held by PRTC or another subsidiary of TELPRI may be required.

67. Finally, we deny, in part, América Móvil's request that the ruling allow the individuals and entities that already exercise control of América Móvil to engage in transactions without prior Commission approval that may increase their ownership interests in it above current levels. We will allow Mr. Carlos Slim Helú and members of his immediate family to increase their equity and/or voting interests held directly or indirectly in América Móvil by an aggregate three percent above the levels they held upon closing of the merger between América Móvil and América Telecom to account for fluctuations in publicly traded shares.

3. Declaratory Ruling

68. Accordingly, this declaratory ruling permits the indirect foreign ownership of PRTC by Sercotel (through Telcel and Tenedora, and the 0.01 percent qualifying shareholders of the three companies), and by América Móvil and its Mexican shareholders (up to and including 100 percent of the equity and voting interests), subject to the requirement that the equity and/or voting interests held directly or indirectly in América Móvil by Mr. Carlos Slim Helú and members of his immediate family not exceed, without prior Commission approval, an aggregate three percent above the levels they held upon closing of the merger between América Móvil and América Telecom. We also approve foreign ownership of PRTC by América Móvil's non-U.S. and non-Mexican shareholders acquiring shares on U.S. and foreign public markets provided América Móvil complies with the conditions specified in paragraphs 65-67, above; and provided PRTC obtains prior Commission approval before its direct or indirect equity and/or voting interests from non-WTO Member countries exceeds 25 percent. We emphasize that, as a Commission licensee, PRTC has an affirmative duty to continue to monitor its foreign equity and voting interests and to calculate these interests consistent with the attribution principles enunciated by the Commission.[191]

H. National Security, Law Enforcement, Foreign Policy and Trade Concerns

69. When analyzing a transfer of control or assignment application in which foreign investment is involved, we also consider any national security, law enforcement, foreign policy, or trade policy concerns raised by the Executive Branch.[192] The Executive Branch Agreement between DOJ,

[190] The word "person" includes a corporation, limited liability company, general partnership, limited partnership, and unincorporated association.

[191] *See Foreign Ownership Guidelines*, 19 FCC Rcd at 22624-26.

[192] *Foreign Participation Order*, 12 FCC Rcd at 23918, ¶ 59; *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96-111, Report and Order, FCC 97-399, 12 FCC Rcd 24094, 24170, ¶ 178 (1997).

FBI, DHS and the Applicants addresses Executive Branch national security, law enforcement, and public safety concerns about the transfer of control of TELPRI from Verizon to América Móvil.[193]

70. The DOJ Petition to Adopt Conditions to Authorizations and Licenses states that the DOJ, FBI and DHS have taken the position that their ability to satisfy their obligations to protect the national security, enforce the laws, and preserve the safety of the public could be impaired by transactions in which foreign entities will own or operate a part of the U.S. telecommunications system, or in which foreign-located facilities will be used to provide domestic telecommunications services to U.S. customers.[194] After discussions with the Applicants, DOJ, FBI and DHS have concluded that the commitments set forth in the Executive Branch Agreement address their concerns, and therefore asked the Commission to condition the grant on the Applicants' compliance with the commitments set forth in the Petition to Adopt Conditions to Authorizations and Licenses.[195]

71. The DOD Petition to Attach Conditions states that it has no objection to the Commission's granting the instant Transfer of Control Application, provided that the Commission condition such authorization on América Móvil's and TELPRI's abiding by commitments and undertakings set forth in their Commitment Letter.[196] After discussions with América Móvil and TELPRI, DOD states that it has concluded that the commitments in the Commitment Letter will adequately safeguard DOD's ability to realign military installations, as mandated by the 2005 Defense Base Closure and Realignment Commission,[197] and will ensure that appropriate security controls remain in place to protect sensitive military communications. DOD further states that the conditions contained in the Commitment Letter demonstrate agreement by the grantees that they will undertake to meet existing TELPRI subsidiaries' contractual obligations, and to support appropriate contingency responses necessary to defend America.[198]

72. In assessing the public interest, we take into account the record and accord deference to Executive Branch expertise on national security and law enforcement issues.[199] As the Commission stated in the *Foreign Participation Order*, foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch.[200] In accordance with the request of DOD and DOJ, FBI and DHS, in the absence of any objection from the Applicants, and given the discussion above, we condition our grant of the Transfer of Control Application on Applicants' compliance with the commitments set forth in the

[193] DOJ Petition to Adopt Conditions at 3.

[194] DOJ Petition to Adopt Conditions at 1-2.

[195] *Id.*

[196] DOD Petition to Attach Conditions at 1. *See* also Letter from Alejandro Cantú Jimenez, América Móvil, S.A. de C.V., to Hilary J. Morgan, Deputy General Counsel for Regulatory and International Law, Defense Information Systems Agency, Terence A. Spann, Deputy Chief, Regulatory Law and Intellectual Property Division, Stephen S. Melnikoff, Principal Telecommunications Trial Counsel, Regulatory Law Office, U.S. Army Litigation Center, Office of the Judge Advocate General, and Gregory A Lund, Office of the Staff Judge Advocate, dated December 19, 2006 (Commitment Letter). The Commitment Letter is attached to the DOD Petition to Attach Conditions as Exhibit 1.

[197] Consistent with the Defense Base Closure and Realignment Act of 1990, as amended, (Public Law 101-510) November 5, 1990.

[198] DOD Petition to Attach Conditions at 2.

[199] *See Foreign Participation Order*, 12 FCC Rcd at 23919-21, ¶¶ 61-66.

[200] *Id.* at 23919, ¶ 62.

Executive Branch Agreement, including the proposed condition attached as Exhibit B to the Executive Branch Agreement. We include the Executive Branch Petition and the Executive Branch Agreement as Appendix B to this *Memorandum Opinion and Order and Declaratory Ruling.* We also include the DOD Petition to Attach Conditions and the Commitment Letter as Appendix C.

IV. CONCLUSION

73. Upon review of the Transfer of Control Application and the record in this proceeding, we conclude that approval of this transaction, subject to the conditions set forth herein, is in the public interest. We find that competitive harm is unlikely in markets for wireline and mobile telephony in Puerto Rico as a result of this transaction. Further, we find no record evidence to conclude that the foreign ownership of TELPRI, the parent of PRTC, would pose a risk to competition in Puerto Rico. We classify PRT LD as a dominant U.S.-international carrier in its provision of service on the U.S.-Mexico, U.S.-Brazil, U.S.-Guatemala, U.S.-Nicaragua and U.S.-El Salvador routes, and continue its classification as dominant on the U.S.-Dominican Republic route, effective upon consummation of the transfer of control of the relevant international section 214 authorizations. Further, based upon the foregoing findings and pursuant to section 310(b)(4) of the Act, we conclude that it would not serve the public interest to prohibit the indirect foreign ownership in PRTC, subject to the Applicants' compliance with their commitments to the DOJ, FBI, DHS and DOD as set forth in Appendices B and C.[201] This grant is also conditioned upon certain notification requirements, prior Commission approval under section 310(b)(4) of future specified transactions, and other limitations as set forth in this Memorandum Opinion and Order and Declaratory Ruling.[202]

V. ORDERING CLAUSES

74. Accordingly, having reviewed the Transfer of Control Application, the petitions, and the record in this matter, IT IS ORDERED that, pursuant to sections 4(i) and (j), 309, 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 309, 310(d), the Transfer of Control Application for consent to transfer of control of the licenses and authorizations identified in Appendix A from Verizon Communications, Inc. and subsidiaries to América Móvil, S.A. de C.V., is GRANTED, to the extent specified and as conditioned in this Memorandum Opinion and Order and Declaratory Ruling.

75. IT IS FURTHER ORDERED, pursuant to sections 4(i) and (j), 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 310(b), that the Petition for Declaratory Ruling requested by América Móvil, S.A. de C.V. is GRANTED to the extent set forth herein.

76. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and (j), 214, 309, and 310(b) and (d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 309, 310(b), 310(d), the Petition to Adopt Conditions to Authorizations and Licenses filed by the U.S. Department of Justice, including the Federal Bureau of Investigation, on behalf of itself and the U.S. Department of Homeland Security on December 15, 2006 IS GRANTED. Grant of the Transfer of Control Application and the declaratory ruling IS CONDITIONED UPON compliance with the commitments set forth in the Executive Branch Agreement, attached to this Memorandum Opinion and Order and Declaratory Ruling as an Appendix.

77. IT IS FURTHER ORDERED that this authorization and any licenses related thereto are subject to América Móvil's commitment in its March 23 *Ex Parte* Letter contained in Appendix D of this Memorandum Opinion and Order and Declaratory Ruling.

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[201] *See supra* ¶ 72.

[202] *See supra* ¶¶ 65-67.

78. IT IS FURTHER ORDERED that this authorization and any licenses related thereto are subject to compliance with the provisions of the Agreement attached hereto between América Móvil, on behalf of itself and its subsidiaries through which it will hold its interest in TELPRI, and TELPRI (collectively, "the Companies"), on the one hand, and the U.S. Department of Justice ("DOJ"), and the U.S. Department of Homeland Security ("DHS"), on the other (collectively, "The USG Parties"), dated December 15, 2006, which agreement is intended to enhance the protection of U.S. national security, law enforcement, and public safety. Nothing in this Agreement is intended to limit any obligation imposed by Federal law or regulation.

79. IT IS FURTHER ORDERED that this authorization and any licenses related thereto are subject to compliance with the provisions of the Agreement attached hereto between América Móvil, S.A. de C.V., on behalf of itself and its subsidiaries through which it will hold its interest in TELPRI (collectively, the Companies), on the one hand, and the United States Department of Defense (DOD) on the other, dated December 19, 2006, which Agreement is intended to enhance the protection of U.S. national security and public safety. Nothing in this Agreement is intended to limit any obligation imposed by Federal law or regulation.

80. IT IS FURTHER ORDERED that, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.10 of the Commission's rules, 47 C.F.R. § 63.10, PRT LD SHALL BE CLASSIFIED as a dominant international carrier in its provision of service on the U.S.-Mexico, U.S.-Brazil, U.S.-Guatemala, U.S.-Nicaragua, U.S.-El Salvador, and U.S.-Dominican Republic routes, and as a non-dominant international carrier on all other U.S.-international routes, effective upon consummation of the transfer of control of the international section 214 authorizations specified in this Memorandum Opinion and Order and Declaratory Ruling.

81. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and (j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 309, 310(d), the Petitions to Deny filed by WorldNet Telecommunications, Inc., the Puerto Rico Telecommunications Regulatory Board, Centennial Communications Corp. and Telefónica Larga Distancia de Puerto Rico ARE DENIED for the reasons stated herein.

82. IT IS FURTHER ORDERED that this Memorandum Opinion and Order SHALL BE EFFECTIVE upon release. Petitions for reconsideration under section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, may be filed within thirty days of the date of public notice of this order.

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch
Secretary

APPENDIX A

SECTION 214 AUTHORIZATIONS

A. International

File No.	Authorization Holder	Authorization Number
ITC-T/C-20060510-00268	PRT Larga Distancia, Inc.	ITC-214-19960215-00072 ITC-214-20000714-00410 ITC-214-20051129-00480

B. Domestic

Docket No.	Authorization Holder
See WT Docket No. 06-113	Puerto Rico Telephone Company, Inc. PRT Larga Distancia, Inc.

SECTION 310(D) AUTHORIZATIONS

A. Part 22-Cellular Licenses

File No.	Licensee	Call Sign
0002597508	Puerto Rico Telephone Company, Inc.	KNKN 414, *et al.*

B. Part 24-Personal Communications Services Broadband Licenses

File No.	Licensee	Call Sign
0002597508	Puerto Rico Telephone Company, Inc.	KNLG211, *et al.*

C. Part 90-Private Land Mobile Radio Services

File No.	Licensee	Call Sign
0002597508	Puerto Rico Telephone Company, Inc.	WYW890, *et al.*

D. Part 101-Digital Electronic Service Message Licenses and Common Carrier Fixed Point-to-Point Microwave Licenses

File No.	Licensee	Call Sign
0002597508	Puerto Rico Telephone Company, Inc.	WHB418, *et al.* WBB286, *et al.*

APPENDIX B

[EXECUTIVE BRANCH AGREEMENT]

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Verizon Communications, Inc., Transferor	)	
and	)	
America Movil, S.A. de C.V.. Transferee	)	WT Docket No. 06-113
	)	file nos. 0002597508,
	)	ITC-T/C-20060510-00269
	)	ISP-PDR-20060509-00006
Section 214 and 310(d) Applications and petition for declaratory ruling under Section 310(b)(4) related to transfer of control of subsidiaries of Telecommunicaciones de Puerto Rico, which is indirectly controlled by Verizon, to América Móvil	)	

To: The Commission

PETITION TO ADOPT CONDITIONS TO AUTHORIZATIONS AND LICENSES

The United States Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), on behalf of itself and the United States Department of Homeland Security ("DHS") (collectively, the "Agencies"), respectfully submit this Petition to Adopt Conditions to Authorizations and Licenses ("Petition"), pursuant to Section 1.41 of the Commission's rules. 47 C.F.R. § 1.41. Through this Petition, the Agencies advise the Commission that they have no objection to the Commission granting its consent in the above-referenced proceeding, provided that the Commission conditions such authorization on América Móvil, S.A. de C.V. ("America Movil"), and

Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), abiding by the commitments and undertakings set forth in their Security Agreement (the "Agreement"), which is attached hereto as Exhibit 1. A proposed condition is also attached to the Agreement as Appendix B.

In the above-captioned proceeding, Verizon Communications, Inc., TELPRI, and America Movil, have submitted applications and petitions seeking the Commission's consent to transfer to America Movil certain wireless licenses and domestic and international Section 214 authorizations, and other assets. Because America Movil is organized under the laws of Mexico, the companies also requested a declaratory ruling that the transaction is consistent with the public interest standard of Section 310(b)(4) of the Act.

As the Commission is aware, the Agencies have taken the position that the requirements of national security, law enforcement, and public safety could be affected by transactions such as the instant case, in which foreign entities will own or operate a part of the domestic telecommunications system in order to provide telecommunications services to U.S. customers. The Commission has, time and again, recognized the role that considerations of national security, law enforcement, and public safety play in the Commission's public interest determinations, and the Commission has adopted the now long-standing policy of deference towards other federal agencies with expertise in these areas. *See In the matter of Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, 12 F.C.C.R. 23,891, ¶ 62 (November 26, 1997) ("We thus will continue to accord deference to the expertise of the Executive Branch agencies in identifying and interpreting issues of concern related to national security, law

enforcement, and foreign policy that are relevant to an application pending before us."); *see also In the Matter of Applications of Guam Cellular and Paging, Inc. and DoCoMo Guam Holdings, Inc., etc.*, FCC 06-167, 2006 WL 3299682 (November 13, 2006) (according deference and adopting conditions). After discussions with representatives of the applicant companies, the aforementioned Agencies have concluded that the commitments set forth in the Agreement will help ensure these important requirements and will assist the Agencies in meeting their safeguarding responsibilities. Accordingly, the Agencies hereby advise the Commission that they have no objection to the Commission granting the above-referenced applications, provided that the Commission conditions its consent on compliance by the grantees with the commitments set forth in the attached Security Agreement.

The Agencies are further authorized to state that the Applicant does not object to the grant of this Petition.

For the Agencies,

/S/_____
Christopher P. Simkins
Senior Counsel, Office of the Assistant Attorney Genera
National Security Division

/S/_____
Stewart A. Baker
Assistant Secretary for Policy
U.S. Department of Homeland Security

/S/_____
Elaine N. Lammert
Deputy General Counsel
Federal Bureau of Investigation

Exhibit 1

CONFIDENTIAL PURSUANT TO 50 APP. U.S.C. § 2170(c)
EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT

SECURITY AGREEMENT

This SECURITY AGREEMENT ("Agreement") is made as of the Effective Date by and between América Móvil, S.A. de C.V., on behalf of itself and the subsidiaries through which it will hold its interest in TELPRI ("América Móvil"), and Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), (collectively, "the Companies"), on the one hand, and the U.S. Department of Justice ("DOJ"), and the U.S. Department of Homeland Security ("DHS"), on the other (collectively, "the USG Parties"), referred to individually by name or as "a Party" and collectively as "the Parties."

RECITALS

WHEREAS, U.S. communication systems are essential to the ability of the U.S. Government to fulfill its responsibilities to the public to preserve the national security of the United States, to enforce the laws, and to maintain the safety of the public;

WHEREAS, the U.S. Government has an obligation to the public to ensure that U.S. communications and related information are secure in order to protect the privacy of U.S. persons and to enforce the laws of the United States;

WHEREAS, it is critical to the well being of the nation and its citizens to maintain the viability, integrity, and security of the communications systems of the United States;

WHEREAS, protection of Classified and Sensitive Information is critical to U.S. national security;

WHEREAS, TELPRI has an obligation to protect from unauthorized disclosure the contents of wire and electronic communications;

WHEREAS, TELPRI is the largest telecommunications service provider in Puerto Rico; through its wholly owned subsidiaries Puerto Rico Telephone Company, Inc. ("PRT") and PRT Larga Distancia, Inc. ("PRT LD"), TELPRI provides approximately 93% of wireline (domestic and long distance) and approximately 24% of the wireless telecommunications on the island; and additionally, TELPRI and its Puerto Rico-based companies provide on-island Internet access, private data services and virtual private network ("VPN");

WHEREAS, as disclosed to the Committee on Foreign Investment in the United States ("CFIUS"), TELPRI subsidiary PRT provides telecommunication services to federal government agencies and the Puerto Rico National Guard;

WHEREAS, according to a September 29, 2006 filing by the Companies and Verizon Communications Inc. ("Verizon") with CFIUS, Verizon and América Móvil have entered into an agreement whereby Verizon and other stockholders in TELPRI will sell the issued and outstanding shares of common stock of TELPRI to certain América Móvil subsidiaries, which will result in América Móvil's ultimate ownership and control of TELPRI (the "Transaction");

WHEREAS, by Executive Order 12661, the President, pursuant to Section 721 of the Defense Production Act, as amended, authorized CFIUS to review, for national security purposes, foreign acquisitions of U.S. companies;

NOW THEREFORE, the Parties are entering into this Agreement to address national security, law enforcement and public safety issues.

ARTICLE 1: DEFINITION OF TERMS

As used in this Agreement:

1.1. "Access" or "Accessible" means the ability to physically or logically undertake any of the following actions: (i) read, divert, or otherwise obtain non-public information or technology from or about software, hardware, a system or a network; (ii) add, edit or alter information or technology stored on or by software, hardware, a system or a network; and (iii) alter the physical or logical state of software, hardware, a system or a network (e.g., turning it on or off, changing configuration, removing or adding components or connections).

1.2. "América Móvil" has the meaning given to it in the Preamble to this Agreement.

1.3. "Call Associated Data" means any information related to a Domestic Communication or related to the sender or recipient of Domestic Communication, to the extent the Domestic Companies maintain such information in the normal course of business. Call Associated Data includes without limitation: subscriber identification; called party number; calling-party number; start time; end time; call duration; feature invocation and deactivation; feature interaction; registration information; user location; diverted-to number; conference-party numbers; post-cut-through dial-digit extraction; in-band and out-of-band signaling; and party add, drop and hold.

1.4. "Classified Information" means information or technology that is classified according to Executive Order 12958, as amended by Executive Order 13292 or any successor executive order, or the Atomic Energy Act of 1954 or any statute that succeeds or amends the Atomic Energy Act of 1954.

1.5. "Closing Date" means the date on which the Transaction is consummated.

1.6. "Control" and "Controls" means the power, direct or indirect, whether exercised, exercisable or not exercised, through any means employable, to decide, direct or otherwise influence matters affecting an entity; in particular, but without limitation, to determine, direct, take, reach, or cause decisions regarding:

(i) the sale, lease, mortgage, pledge, or other transfer of any or all of the principal assets of the entity, whether or not in the ordinary course of business;

(ii) the dissolution of the entity;

(iii) the closing and/or relocation of the production or research and development facilities of the entity;

(iv) the termination or non-fulfillment of contracts of the entity;

(v) the amendment of the articles of incorporation or constituent agreement of the entity with respect to the matters described in subsections (i) through (iv) above; and

(vi) the Domestic Companies' obligations under this Agreement.

1.7. "Customer Information" means Identifying Information for any customer of TELPRI or PRT.

1.8. "Data Centers" means (a) equipment (including firmware, software and upgrades), facilities, and premises used by (or on behalf of) one or more Domestic Companies in connection with Hosting Services (including data storage and provisioning, control, maintenance, management, security, selling, billing, or monitoring of Hosting Services), and (b) equipment hosted by the Domestic Companies that is leased or owned by a Hosting Services customer.

1.9. "*De facto*" and "*de jure*" control have the meanings provided in 47 C.F.R. § 1.2110.

1.10. "Domestic Communications" means (i) Wire Communications or Electronic Communications (whether stored or not) from one U.S. location to another U.S. location and (ii) the U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States.

1.11. "Domestic Communications Infrastructure" means (i) transmission, switching, bridging and routing equipment (including software and upgrades) in use to provide, process, direct, control, supervise or manage Domestic Communications; and (ii) facilities and equipment that are used to control the equipment described in (i). Domestic Communications Infrastructure does not include equipment dedicated to the termination of international undersea cables, provided that such equipment is utilized solely to effectuate the operation of undersea transport network(s) outside of the United States and in no manner controls land-based transport network(s) or their associated systems in the United States, nor does it include facilities and equipment intended and capable solely of performing billing, customer management, business management or marketing functions.

1.12. "Domestic Companies" means TELPRI and all existing and post-Agreement subsidiaries, divisions, departments, branches and other components of TELPRI, or any other entity over which TELPRI has *de facto* or *de jure* control, that (i) provide Domestic Communications, or (ii) engage in provisioning, control, maintenance, management, security, selling, billing, or monitoring of Hosting Services, or data.

1.13. "Effective Date" means the date of the last signature affixed to this Agreement by the Parties.

1.14. "Electronic Communication" has the meaning given it in 18 U.S.C. § 2510(12).

1.15. "FBI" means the Federal Bureau of Investigation.

1.16. "Foreign Entity" means any Foreign Person; any entity established under the laws of a country other than the United States, or any government other than the U.S. Government or a U.S. state or local government.

1.17. "Foreign Person" means any Person who is not a U.S. Person as provided by 31 C.F.R. § 800.222.

1.18. "Hosting Services" means Web hosting (whether shared or dedicated, and including design, server management, maintenance and telecommunications services), Web site traffic management, electronic commerce, streamed media services, server collocation and management, application hosting, and all other similar services offered by the Domestic Companies.

1.19. "Identifying Information" means the name, address, telephone number, e-mail address, I.P. address, or any other information that is customarily used to identify a particular end user.

1.20. "Intercept" or "Intercepted" has the meaning defined in 18 U.S.C. § 2510(4).

1.21. "Lawful U.S. Process" means lawful U.S. federal, state, or local court orders, subpoenas, warrants, processes, or authorizations issued under U.S. federal, state, or local law for electronic surveillance, physical search or seizure, production of tangible things, or Access to or disclosure of Domestic Communications, Call Associated Data, or U.S. Hosting Data, including Transactional Data or Subscriber Information.

1.22. "Lawfully Authorized Electronic Surveillance" means:

(i) the interception of wire, oral, or electronic communications as defined in 18 U.S.C. §§ 2510(4), (1), (2), and (12), and electronic surveillance as defined in 50 U.S.C. § 1801(f);

(ii) access to stored wire or electronic communications, as referred to in 18 U.S.C. § 2701 et seq.;

(iii) acquisition of dialing, routing, addressing or signaling information through pen register or trap and trace devices or other devices or features capable of acquiring such information pursuant to law as defined in 18 U.S.C. § 3121 et seq. and 50 U.S.C. § 1841 et seq.;

(iv) acquisition of location- related information concerning a service subscriber or facility;

(v) preservation of any of the above information pursuant to 18 U.S.C. § 2703(f); and

(vi) access to, or acquisition or interception of, or preservation of communications or information as described in (i) through (ii) above and comparable State laws.

1.23. "Network Management Information" means: network plans, processes and procedures; placement of Network Operating Center(s) and linkages to other domestic and international

carriers, ISPs or other critical infrastructures; descriptions of any IP networks and operations processes and procedures related to backbone infrastructure(s); description of any proprietary control mechanisms and operating and administrative software; and all network performance information.

1.24. "Party" and "Parties" have the meanings given them in the Preamble.

1.25. "Personnel" means an entity's (i) employees, officers, directors, and agents, and (ii) contract or temporary employees (part-time or full-time) who are under the direction and control of the entity and have Access to its products or services.

1.26 "Routine Business Visits" has the meaning given it in Section 3.6 of this Agreement.

1.27. "Security Incident" means any of the following incidents with respect to the Domestic Companies' products and services, when such incidents materially harm the national security interests of the United States: (i) the insertion of malicious code; insertion and/or transmittal of viruses or worms; denial of service attacks; use of botnets; phishing; identity theft; and unauthorized redirection or misdirection of Internet page requests (for purposes of the foregoing list an incident that is within the reporting guidelines of the United States Computer Emergency Readiness Team shall be considered a Security Incident); (ii) unauthorized addition, alteration, deletion, acquisition, theft, transfer, diversion of or Access to Classified Information, Sensitive Information, USG Customer Information and Customer Information; (iii) establishment of unauthorized communications channels to any foreign government or other unauthorized recipient; (iv) other unauthorized addition, alteration, deletion, acquisition, theft, transfer, diversion of or Access to information or technology as identified in collaboration with the USG Parties in the Security Policy required under Section 3.2 of this Agreement; or (v) any other similar use of the Domestic Companies' Products or Services.

1.28. "Sensitive Information" means information that is not Classified Information regarding (a) the persons or facilities that are the subjects of Lawful U.S. Process, (b) the identity of the government agency or agencies serving such Lawful U.S. Process, (c) the location or identity of the line, circuit, transmission path, or other facilities or equipment used to conduct Lawfully Authorized Electronic Surveillance pursuant to Lawful U.S. Process, (d) the means of carrying out Lawfully Authorized Electronic Surveillance pursuant to Lawful U.S. Process, (e) the type(s) of service, telephone number(s), records, communications, or facilities subjected to Lawful U.S. Process, and any other U.S. Government information that is designated in writing by an authorized official as "Sensitive Information," "Official Use Only," "Limited Official Use Only," "Law Enforcement Sensitive," "Sensitive Security Information," "Not For Distribution to Foreigners," "NOFORN," or other similar categories.

1.29. "Subscriber Information" means information relating to subscribers or customers of Domestic Companies, including U.S. Hosting Services Customers (or the end-users of U.S. Hosting Services Customers), of the type referred to and accessible subject to procedures specified in 18 U.S.C. § 2703(c) or (d) or 18 U.S.C. § 2709. Such information shall also be considered Subscriber Information when it is sought pursuant to the provisions of other Lawful U.S. Process.

1.30. "Stock Purchase Agreement" means the Stock Purchase Agreement, dated April 2, 2006, by and between GTE Holdings (Puerto Rico) LLC and Sercotel, S.A. de C.V., which is a subsidiary of América Móvil.

1.31. "TELPRI" has the meaning given to it in the Preamble.

1.32. "Transaction" means the purchase of TELPRI by América Móvil pursuant to the terms of the Stock Purchase Agreement.

1.33. "Transactional Data" means:

(i) "call identifying information," as defined in 47 U.S.C. § 1001(2), including without limitation the telephone number or similar identifying designator associated with a Domestic Communication;

(ii) any information possessed by the Domestic Companies relating to the identity or location of any customer, subscriber, account payer, or any end-user relating to all telephone numbers, domain names, IP addresses, Uniform Resource Locators ("URLs");

(iii) the time, date, size or volume of data transfers, duration, domain names, MAC or IP addresses (including source and destination), URLs, port numbers, packet sizes, protocols or services, special purpose flags, or other header information or identifying designators or characteristics associated with any Domestic Communication, or other Wire or Electronic Communication within the definition of U.S. Hosting Data;

(iv) any information related to any mode of transmission (including mobile transmissions); and

(v) any information indicating the physical location to or from which a Domestic Communication, or other Wire or Electronic Communication within the definition of U.S. Hosting Data, is transmitted, which includes all records or other information of the type referred to and accessible subject to procedures specified in 18 U.S.C. § 2703(c)(1) and (d).

1.34. "United States" or "U.S." means the United States of America including all of its states, districts, territories, possessions, commonwealths, and the special maritime and territorial jurisdiction of the United States, and specifically includes the Commonwealth of Puerto Rico.

1.35. "U.S. Hosting Data" means all data, records, documents, or information (including Domestic Communications, other Wire or Electronic Communications, Subscriber Information, and Transactional Data) in any form (including but not limited to paper, electronic, magnetic, mechanical, or photographic) transmitted, received, generated, maintained, processed, used by or stored in a Data Center for a U.S. Hosting Services Customer.

1.36. "U.S. Hosting Services Customer" means any customer or subscriber that receives Hosting Services from the Domestic Companies that are U.S.-domiciled or holds itself out as being U.S.-domiciled.

1.37. "USG Customer Information" means any Identifying Information for any customer of the Domestic Companies that qualifies as or constitutes the U.S. Government as well as any other records or information pertaining to telecommunications equipment needs and/or purchases by the U.S. Government.

1.38. "Wire Communication" has the meaning given it in 18 U.S.C. § 2510(1).

1.39. Other Definitional Provisions. Other capitalized terms used in this Agreement, including in the Preamble, and not defined in this Article shall have the meanings assigned them elsewhere in this Agreement. The definitions in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Whenever the words "include," "includes," or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

ARTICLE 2: FACILITIES, INFORMATION STORAGE AND ACCESS

2.1. Domestic Communications Infrastructure. Except to the extent and under conditions concurred in by the USG Parties in writing:

(i) all Domestic Communications Infrastructure owned, operated or controlled by the Domestic Companies shall at all times be located in the United States and directed, controlled, supervised and managed by the Domestic Companies;

(ii) all Domestic Communications that are carried by or through the Domestic Communications Infrastructure shall pass through facilities under the control of the Domestic Companies that are physically located in the United States, and from which Lawfully Authorized Electronic Surveillance can be conducted pursuant to Lawful U.S. Process. Domestic Companies will provide technical or other assistance to facilitate such Lawfully Authorized Electronic Surveillance; and

(iii) all foreign connections traffic for circuit-switched communications and, to the extent technically feasible, Internet communications shall be monitored using industry best-practices, by the Domestic Companies for unauthorized access, unauthorized network intrusions and any other malicious activity.

2.2. Data Centers and Access to Communications. Except to the extent and under conditions concurred in by the USG Parties in writing:

(i) all Data Centers used to provide Hosting Services to U.S. Hosting Services Customers shall at all times be located in the United States; and

(ii) the Domestic Companies shall ensure that Wire or Electronic Communications of any specified U.S. Hosting Services Customer that are transmitted to, from or

through a Data Center shall be accessible from, or pass through a U.S.-based facility that is under the control of the Domestic Companies, and from which Lawfully Authorized Electronic Surveillance can be conducted.

2.3. Domestic Infrastructure and Data Center Compliance with Lawful U.S. Process. The Domestic Companies shall take all steps necessary to configure Domestic Communications Infrastructure and Data Centers to comply with:

(i) Lawful U.S. Process;

(ii) the orders of the President in the exercise of his/her authority under § 706 of the Communications Act of 1934, as amended, 47 U.S.C. § 606, and under § 302(e) of the Aviation Act of 1958, 49 U.S.C. § 40107(b) and Executive Order 11161 (as amended by Executive Order 11382); and

(iii) National Security and Emergency Preparedness rules, regulations and orders issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. § 151 et seq.

2.4. Domestic Employee Compliance with Lawful U.S. Process. The Domestic Companies shall take all steps necessary to ensure that its employees in the United States have unconstrained authority to comply with:

(i) Lawful U.S. Process;

(ii) the orders of the President in the exercise of his/her authority under § 706 of the Communications Act of 1934, as amended, 47 U.S.C. § 606, and under § 302(e) of the Aviation Act of 1958, 49 U.S.C. § 40107(b) and Executive Order 11161 (as amended by Executive Order 11382); and

(iii) National Security and Emergency Preparedness rules, regulations and orders issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. § 151 et seq.

2.5. Information Storage. The Domestic Companies shall store exclusively in the United States the following:

(i) stored Domestic Communications;

(ii) Wire Communications or Electronic Communications received by, intended to be received by, or stored in the account of a customer or subscriber of the Domestic Companies.

(iii) Transactional Data and Call Associated Data relating to Domestic Communications;

(iv) Subscriber Information concerning customers who are U.S.-domiciled, customers who hold themselves out as being U.S.-domiciled, and customers who make any Domestic Communication;

(v) billing records of customers who are U.S.-domiciled, customers who hold themselves out as being U.S.-domiciled, and customers who make any Domestic Communication; and

(vi) Network Management Information, provided, however, that duplicate copies of such Network Management Information may be maintained at América Móvil's headquarters in Mexico City, Mexico.

2.6. U.S. Hosting Data Storage and Access. The Domestic Companies shall be able to provide to the USG Parties any stored U.S. Hosting Data. The Domestic Companies shall not store U.S. Hosting Data outside of the United States without written authorization from the USG Parties. Additionally, the Domestic Companies shall take all steps necessary to ensure that U.S. Hosting Data is stored in a manner not subject to mandatory destruction under any foreign laws.

2.7. Billing Records. The Domestic Companies shall store for at least five years all billing records described in Section 2.5(v) above.

2.8. Routing of Domestic Communications and U.S. Hosting Data. To the extent that routing of Domestic Communications and U.S. Hosting Data is controlled by the Companies or their affiliates, and except for routing of traffic (i) from or to U.S. states, territories and possessions outside the Continental United States, (ii) to avoid network disruptions, (iii) consistent with least-cost routing practices implemented pursuant to agreement between the Domestic Companies and the USG Parties, and (iv) only as agreed to in writing by the USG Parties, the Domestic Companies shall not route Domestic Communications or U.S. Hosting Data outside the United States. To the extent that routing of Domestic Communications and U.S. Hosting Data is controlled by the Companies or their affiliates, notwithstanding the foregoing and except for traffic bound to or from Mexico, Domestic Companies shall not route Domestic Communications or U.S. Hosting Data through Mexico. USG Parties recognize that the Domestic Companies' subscribers may choose alternative providers for their long distance service and that the Domestic Companies do not control interstate or international routing of calls for such subscribers.

2.9. Storage of Protected Information. The storage of Classified and Sensitive Information by the Domestic Companies or its contractors at any location outside of the United States is prohibited. Classified and Sensitive Information stored or maintained by the Domestic Companies in electronic form shall be encrypted.

2.10. Network Topology. Before the Closing Date, the Domestic Companies will provide to the USG Parties a comprehensive description of their domestic telecommunications network topology, including the location of servers, routers, switches, operational systems software, and network security appliances and software, and shall provide updates to such description upon request of any of the USG Parties.

2.11. Interconnection arrangements with América Móvil. Interconnection arrangements between Domestic Companies, on the one hand, and América Móvil, on the other hand, shall be made only through arms-length agreements based on commercial terms.

2.12. CPNI. Domestic Companies shall comply, with respect to Domestic Communications, with all applicable Federal Communications Commission ("FCC") rules and regulations governing access to and storage of Customer Proprietary Network Information ("CPNI"), as defined in 47 U.S.C. § 222(h)(1).

2.13. Compliance with U.S. Law. Nothing in this Agreement shall excuse the Domestic Companies from any obligation they may have to comply with any U.S. legal requirements, including but not limited to requirements for the retention, preservation, or production of such information or data. Similarly, in any action to enforce Lawful U.S. Process, the Domestic Companies have not waived any legal right that they might have to resist such process.

ARTICLE 3: SECURITY

3.1. Security Policies and Procedures. The Domestic Companies shall take reasonable steps and adopt an internal compliance process designed to prevent Security Incidents by the Companies, their Personnel, and any third party person or entity, including any foreign government, with respect to any of the Domestic Companies' products or services; such process shall include training and annual certification procedures. In the absence of prior approval by the USG Parties, the Companies shall not authorize any person or entity to take any action that, in the absence of such authorization, would constitute a Security Incident unless such authorization is consistent with this Agreement and with the normal course of the Companies' business. The Domestic Companies also will maintain or exceed security standards and best practices utilized within the U.S. telecommunications industry and will consult with the USG Parties and other appropriate U.S. Government agencies on steps to maintain or exceed such standards and practices. The Domestic Companies shall take measures consistent with such practices to prevent the use of or access to the Domestic Communications Infrastructure or to Data Centers to conduct Lawfully Authorized Electronic Surveillance, or to obtain or disclose Domestic Communications, U.S. Hosting Data, Classified Information, or Sensitive Information, in violation of any U.S. federal, state, or local laws, or the terms of this Agreement. These measures shall include maintenance of all existing Domestic Companies' security policies and procedures, and shall include provisions consistent with industry best practices for: maintenance of password systems, non-destructive access logs, including in particular, logs regarding any access to a capability to conduct electronic surveillance, and non-destructive audit logs; periodic internal network security audits; periodic switch audits to discover unauthorized "Free Line Service" accounts; physical security for access to Domestic Communications Infrastructure; and ensuring the placement of firewalls and associated security levels.

3.2. Maintenance of Existing Security Policies and Procedures. Consistent with Section 3.1 above, the Domestic Companies will maintain all existing security policies and procedures (attached hereto as Appendix A). The Domestic Companies will make all relevant information concerning these policies and procedures available to the USG Parties before the Closing Date of this Agreement and within thirty days of receipt of a written request made by the USG Parties during the life of this Agreement. Upon receipt of a written notice at least forty-eight hours in

advance from the USG Parties, the Companies will meet and confer with the USG Parties or their designees to address any concern. The Companies will provide at least thirty days advance written notice to the USG Parties of any proposed change to existing security policies. The Companies agree that if a Senate-confirmed official of any USG Party determines in writing that the proposed change would result in undue national security risk, the Companies will forgo the proposed change.

3.3. Security of Pre-Existing Lawfully Authorized Electronic Surveillance, Lawful U.S. Process and Protected Information. Prior to the Closing Date, the Domestic Companies' Security Officer(s) will secure all existing electronic surveillance equipment or processes, pursuant to procedures negotiated with the USG Parties, and will certify compliance with the requirements of Sections 2.9 and 3.1 of this Agreement with regard to any pre-existing Lawful U.S. Process, Classified, and Sensitive Information, including but not limited to: any order to intercept communications, order for a pen register or a trap and trace device, subpoena, or other lawful demand by a U.S. Government agency for U.S. records, including all Title III and FISA related intercepts and related orders data. América Móvil will not interfere with that securing of pre-existing electronic surveillance activities, Lawful U.S. Process or other information pursuant to this Section. Additionally, América Móvil and the Domestic Companies will not allow any person other than the Domestic Companies' Security Officer(s) to access any such information without first obtaining written authorization for such access from the USG Parties or from the agent of the USG who originally supplied the information to the Domestic Companies.

3.4. Security Officer Appointment, Responsibilities and Duties. The Head of Security of the Domestic Companies, or a designee in a direct reporting relationship with the Head of Security, shall serve as the Security Officer with the primary responsibility for ensuring compliance with the Domestic Companies' obligations under this Agreement, and shall be a resident citizen of the United States with an active security clearance or eligibility to apply for a security clearance as outlined in Executive Order 12968. The Domestic Companies will ensure that the Security Officer cooperates with any request by a USG Party for clearance or further background checks. Within thirty days after the Closing Date, the Domestic Companies shall notify the USG Parties of the identity of the Security Officer.

3.5. Visitation Policy. No later than ninety days after the Closing Date, the Domestic Companies shall adopt and implement a visitation policy for all visits by Foreign Persons to Domestic Communications Infrastructure. The visitation policy shall differentiate between categories of visits based on the sensitivity of the information, equipment and personnel to which the visitors will have access, and shall include a Routine Business Visit exception, as defined below. Under the policy, a written request for approval of a visit must be submitted to the Security Officer no less than seven days prior to the date of the proposed visit. For all visits to Domestic Communications Infrastructure covered by the policy, the Security Officer shall review and approve or disapprove the requests. A record of all such visit requests, including the decision to approve or disapprove, and information regarding consummated visits, such as date and place, as well as the names, business affiliation and dates of birth of the visitors, and the Domestic Companies' personnel involved, shall be maintained by the Security Officer for 2 years. During all such visits, visitors will be escorted at all times by an employee, and within conditions set forth by the Security Officer.

3.6 Routine Business Visits. Notwithstanding Section 3.5, Routine Business Visits may occur without prior approval by the Security Officer. A record of Routine Business Visits, including a log that contains the names of the visitors, their business affiliations, and the purpose of their visits, shall be maintained by the Security Officer for a period of at least two (2) years from the date of the visit itself. "Routine Business Visits" are those that: (a) are made in connection with the regular day-to-day business operations of the Domestic Companies; (b) do not involve Access to Call Associated Data, Classified Information, Customer Information, Domestic Communications, Domestic Communications Infrastructure, Sensitive Information, Subscriber Information, Transactional Data, U.S. Hosting Data, or USG Customer Information; and (c) pertain only to the commercial aspects of the Domestic Companies' business. These may include, but not limited to:

(i) visits for the purpose of discussing or reviewing such commercial subjects as company performance versus plans or budgets; inventory, accounts receivable, accounting and financial controls; and business plans and implementation of business plans;

(ii) visits of the kind made by customers or commercial suppliers in general regarding the solicitation of orders, the quotation of prices, or the provision of products and services on a commercial basis; and

(iii) visits concerning fiscal, financial, or legal matters involving a Domestic Company.

3.7. Restrictions on Access to Lawfully Authorized Electronic Surveillance Information and Equipment, Lawful U.S. Process. The Security Officer will limit access to any information related to Lawfully Authorized Electronic Surveillance activities or equipment or to Lawful U.S. Process, including but not limited to all Title III and FISA related intercepts, orders data and equipment. Specifically, unless otherwise agreed by the USG Parties or the agent of the USG who supplied the information to the Domestic Companies, the Security Officer will ensure that only U.S. citizens with a need to know have access to such information and will control access to documents and systems in order to ensure the requisite limitations. The Security Officer will promptly report to the USG Parties any attempt to access the information above or interfere with any Lawfully Authorized Electronic Surveillance activities, in a manner that is inconsistent with the requirements of this Agreement. The Security Officer will maintain a list of the identities of individuals to whom he has provided access to any Lawfully Authorized Electronic Surveillance activities or equipment or to Lawful U.S. Process, and will produce such list upon request by a USG Party or its designee.

3.8. Access by Foreign Government Authority. The Domestic Companies shall not, directly or indirectly, disclose or permit disclosure of, or provide access to Domestic Communications, U.S. Hosting Data, Call Associated Data, Transactional Data, or Subscriber Information stored by Domestic Companies to any person if the purpose of such access is to respond to the legal process or the request of or on behalf of a foreign government, identified representative, component or subdivision thereof without the express written consent of the USG Parties or the authorization of a court of competent jurisdiction in the United States. Any such requests or submission of legal process described in this Agreement shall be reported to the USG Parties as

soon as possible and in no event later than five business days after such request or legal process is received by and known to the Security Officer. Domestic Companies shall take reasonable measures to ensure that the Security Officer will promptly learn of all such requests or submission of legal process.

3.9. Disclosure to Foreign Government Authorities. The Domestic Companies shall not, directly or indirectly, disclose or permit disclosure of, or provide access to:

(i) Classified or Sensitive Information; or

(ii) Subscriber Information, Transactional Data, Call Associated Data, or U.S. Hosting Data, including a copy of any Wire Communications or Electronic Communication, intercepted or acquired pursuant to Lawful U.S. Process to any foreign government, identified representative, component or subdivision thereof without satisfying all applicable U.S. Federal, state and local legal requirements pertinent thereto, and obtaining the express written consent of the USG Parties or the authorization of a court of competent jurisdiction in the United States. Any requests or any legal process submitted by a foreign government, an identified representative, a component or subdivision thereof to Domestic Companies for the communications, data or information identified in this Agreement that is maintained by Domestic Companies shall be referred to the USG Parties as soon as possible and in no event later than five business days after such request or legal process is received by and known to the Security Officer, unless the disclosure of the request or legal process would be in violation of an order of a court of competent jurisdiction within the United States. The Domestic Companies shall take reasonable measures to ensure that the Security Officer will promptly learn of all such requests or submission of legal process.

3.10. Notification of Access or Disclosure Requests from Foreign Non-Governmental Entities. Within thirty days of receipt, the Domestic Companies shall notify the USG Parties in writing of legal process or requests by foreign nongovernmental entities to Domestic Companies for access to or disclosure of (i) U.S. Hosting Data, or (ii) Domestic Communications carried by or through, in whole or in part, the Domestic Communications Infrastructure, unless the disclosure of the legal process or request would be in violation of an order of a court of competent jurisdiction within the United States.

3.11. Security of Lawful U.S. Process. The Domestic Companies shall protect the confidentiality and security of all Lawful U.S. Process served upon them and the confidentiality and security of Classified and Sensitive Information in accordance with U.S. Federal and state law or regulation and this Agreement. Information concerning Lawful U.S. Process, Classified Information, or Sensitive Information shall be under the custody and control of the Security Officer.

3.12. Disclosure of Protected Data. The Security Officer shall not directly or indirectly disclose information concerning Lawful U.S. Process, Classified Information or Sensitive Information to any third party, or to any officer, director, shareholder, employee, agent, or contractor of América Móvil, including those who serve in a supervisory, managerial or officer

role with respect to the Security Officer, except to the extent required to comply with this Agreement, unless disclosure has been approved by prior written consent obtained from the USG Parties.

3.13. Removal of Security Director or Security Officer. Any Security Officer may be removed for any reason permitted by the provisions of applicable law or under the charter of the Domestic Companies, provided that:

(i) the removal of a Security Director or Security Officer shall not become effective until the USG Parties have received written notification of removal; a successor who is qualified within the terms of this Agreement is selected; the USG Parties receive written notice of the proposed replacement; and the USG Parties do not object to the proposed replacement within ten days of receipt of such notice; and

(ii) notwithstanding the foregoing, however, if immediate removal of any Security Director or Security Officer is deemed necessary to prevent actual or possible violation of any statute or regulation or actual or possible damage to the Domestic Companies, the individual may be temporarily suspended, pending written notification to the USG Parties, and removed upon the approval by the USG Parties.

(iii) In no event shall a vacancy for the position of Security Director or Security Officer exist for a period of more than thirty days before Domestic Companies nominate a qualified candidate to fill such vacancy.

3.14. Point of Contact. Within fourteen days after the Closing Date, the Domestic Companies shall designate in writing to the USG Parties at least one nominee already holding a U.S. security clearance, or reasonably believed to be eligible for such a clearance, to serve as a primary point of contact within the United States with the authority and responsibility for accepting and overseeing the carrying out of Lawful U.S. Process. The point of contact shall be assigned to the Domestic Companies' office(s) in the United States, shall be available twenty-four hours per day, seven days per week and shall be responsible for accepting service and maintaining the security of Classified and Sensitive Information and any Lawful U.S. Process in accordance with the requirements of U.S. law and this Agreement. The Domestic Companies shall promptly notify the USG Parties of any change in such designation. The Domestic Companies shall cooperate with any request by a U.S. federal, state or local government entity within the United States that a further background check or further security clearance process be completed for a designated point of contact.

3.15. Screening of Additional Personnel. The Domestic Companies shall implement a thorough screening process through a reputable third party to ensure compliance with all personnel screening requirements agreed to by the Domestic Companies and the USG Parties, which includes screening for any existing or newly hired personnel (such personnel, upon completion of screening procedures, to be considered "Screened Personnel"):

(i) whose position involves access to the Domestic Communications Infrastructure that enables those persons to monitor the content of Wire or Electronic Communications (including in electronic storage);

(ii) whose position allows access to Transactional Data, Call Associated Data or Subscriber Information; and

(iii) all persons who have access to Sensitive Information or USG Facilities or premises; and

(iv) all security personnel.

3.16. Screening Process Requirements. The screening process undertaken pursuant to this Section shall follow the guidance to U.S. Government agencies for screening civilian Federal employees in Executive Order 10450, and shall specifically include a background and financial investigation, in addition to a criminal records check.

(i) The Domestic Companies shall consult with the USG Parties on the screening procedures utilized by the reputable third party and shall provide to the USG Parties a list of the positions subject to screening within sixty days of the Closing Date. The Domestic Companies shall utilize the criteria identified pursuant to Section 3.15 of this Agreement to screen personnel, shall report the results of such screening on a regular basis to the Security Officer, and shall, upon request, provide to the USG Parties all the information it collects in its screening process of each candidate. Candidates for these positions shall be informed that the information collected during the screening process may be provided to the U.S. Government, and the candidates shall consent to the sharing of this information with the U.S. Government.

(ii) The Domestic Companies will cooperate with a request by the USG Parties or any U.S. Government agency desiring to conduct any further background checks.

(iii) Individuals who are rejected pursuant to such further background checks by the USG Parties for the screening requirements of this Agreement will not be hired or, if they have begun their employment, will be immediately removed from their positions or otherwise have their duties immediately modified so that they are no longer performing a function that would require screening under this Section. The Domestic Companies will notify the USG Parties of the transfer, departure, or job modification of any individual rejected because of the screening conducted pursuant to this Agreement within seven days of such transfer or departure, and shall provide the USG Parties with the name, date of birth and social security number of such individual.

(iv) The Domestic Companies shall provide training programs to instruct Screened Personnel as to their obligations under the Agreement and the maintenance of their trustworthiness determination or requirements otherwise agreed. The Domestic Companies shall monitor on a regular basis the status of Screened

Personnel, and shall remove personnel who no longer meet the Screened Personnel requirements.

(v) The Domestic Companies shall maintain records relating to the status of Screened Personnel, and shall provide these records, upon request, to any or all of the USG Parties.

3.17. Notification of Changes to Corporate Leadership. Except as set out below, the Companies will provide at least thirty days advance written notice to the USG Parties of any proposed replacement with a Foreign Person of a member of the Board of Directors or senior management at the Vice President level or above of any of the companies incorporated in the United States. In exigent circumstances, such as the acquisition of TELPRI to be consummated on the Closing Date, the Companies agree to provide written notice to the USG Parties of the replacement of any members of the Board or senior management with a Foreign Person as soon as practicable, and in no case less than 10 business days after the replacement is effectuated. This notice shall include sufficient information to confirm the identity of the proposed Foreign Person. If, within 30 days of notice, the USG Parties object to the proposed replacement with a Foreign Person of a member of the Board of Directors or of senior management the Domestic Companies, the Companies will not appoint that candidate to the position, or will remove that individual from the position.

3.18. Operational Control of the Domestic Companies' Network. Except to the extent and under conditions concurred in by the USG Parties in writing, operational control of the Domestic Communications Infrastructure, including network administration, maintenance and provisioning, will be restricted to the Domestic Companies' facilities located in the United States, and the Domestic Companies shall prohibit remote access from outside the United States, to network elements, any capabilities to conduct electronic surveillance, and operational support systems.

3.19. Notice of Obligations. The Domestic Companies shall instruct appropriate officials, employees, contractors, and agents as to the security restrictions and safeguards imposed by this Agreement.

3.20. Access to Classified or Sensitive Information. Nothing contained in this Agreement shall limit or affect the authority of a U.S. Government agency to deny, limit or revoke Domestic Companies' access to Classified and Sensitive Information under that agency's jurisdiction.

3.21. Security Meetings with the U.S. Government. Upon request by any or all of the USG Parties, the Companies shall meet with the requesting USG Parties and any other U.S. Government entity designated by the USG Parties, to discuss matters concerning the Companies' compliance with and enforcement of this Agreement and any other issue that could affect U.S. national security. The USG Parties shall coordinate such meetings and take reasonable steps so as not to place an undue economic burden on the Companies.

3.22. U.S. Government Access to Facilities, Records and Personnel. Upon forty-eight hours prior written request from the USG Parties, the Domestic Companies shall provide access to all records requested and/or physical access to facilities and personnel requested. The Companies

may request a meeting to discuss the scope of the U.S. Government agency's request or other reasonable concerns, and the U.S. Government agency shall meet with the Companies as soon as possible, but the meeting request shall not excuse the Domestic Companies' obligation to comply within the forty-eight hours.

3.23. Establishment of Security Committee of TELPRI Board. The TELPRI board of directors shall establish a Security Committee to oversee the Domestic Companies' implementation of and compliance with this Agreement. The Security Committee shall be comprised solely of directors ("Security Directors") who are U.S. citizens; who, if not already in possession of U.S. security clearances, are reasonably believed to be eligible to apply for security clearances pursuant to Executive Order 12968; and who satisfy the independent director requirements of the New York Stock Exchange. If a Security Director does not already possess a U.S. security clearance, he or she may nevertheless serve as Security Director, subject to approval by the USG Parties. The Security Committee shall supervise and report to the full TELPRI board of directors on the Domestic Companies' implementation of and compliance with this Agreement, consistent with their obligation to keep such information confidential. To perform its function, the Security Committee shall, among other things, receive reports from the Security Officer on TELPRI's compliance with this Agreement, and also shall receive a summary of any report issued pursuant to this Agreement, including the annual report on compliance issued pursuant to Section 5.5 of this Agreement. The Security Committee shall, in turn, provide general reporting to the full TELPRI Board on TELPRI's compliance with this Agreement. Not fewer than two TELPRI directors shall serve at any time as the Security Committee of the TELPRI Board.

3.23. Attendance of Security Directors at Board Meetings of Domestic Companies. A meeting of the board of a Domestic Company or of a board committee of a Domestic Company shall not occur without a Security Director in attendance, whether as a member or as an observer, unless the issues addressed at such meeting in no respect address or affect the obligations of the Domestic Company under this Agreement. In the event that the board of a Domestic Company or a board committee of a Domestic Company must address at a meeting, for reasons of exigent circumstances, an issue related to or affecting the obligations of the Domestic Company under this Agreement, and all Security Director positions are vacant at the time of such a meeting, the absence of the Security Director will not prevent the meeting provided that the Security Officer attends the meeting.

ARTICLE 4: DISPUTES AND REMEDIES

4.1. Informal Resolution. The Parties shall use their best efforts to resolve any disagreements or incidents that may arise under this Agreement. Disagreements or incidents shall be addressed, in the first instance, at the staff level by the Parties' designated representatives. Any disagreement that has not been resolved at that level shall be submitted promptly to the policy-level officials of the USG Parties, unless those higher authorized officials believe that important national interests can be protected, or the Companies believe that their paramount commercial interests can be resolved, only by resorting to the measures set forth in this Agreement. If, after meeting with higher authorized officials, any of the Parties determines that further negotiation would be fruitless, then that Party may resort to the remedies set forth in this Agreement.

4.2. Enforcement of Agreement. If any of the Parties believes that any other of the Parties has breached or is about to breach this Agreement, that Party may bring an action against the other Party for appropriate injunctive or other judicial relief. Nothing in this Agreement shall limit or affect the right of any Party to exercise any rights it may have under law or regulation or this Agreement. In the case of the USG Parties, this includes, but is not limited to, any or all of the following:

(i) require that the Party or Parties believed to have breached, or about to breach, this Agreement cure such breach within thirty days upon receiving written notice of such breach;

(ii) require that the Companies pay monetary damages and reasonable costs associated with compensating the USG Parties for actual and direct expenses associated with an incident of breach; provided, however, that nothing in this provision shall require the Companies to compensate the USG Parties for any indirect or consequential damages;

(iii) seek civil remedies for any violation by the Companies of any U.S. law or regulation or term of this Agreement;

(iv) pursue criminal sanctions against the Companies, or any director, officer, employee, representative, or agent of the Companies, or against any other person or entity, for violations of the criminal laws of the United States; or

(v) seek suspension or debarment of the Companies from eligibility for contracting with the U.S. Government.

4.3. Security Incidents. Notwithstanding any provision of this Agreement to the contrary, the Parties agree that if any Personnel of the Companies knowingly uses or participates in the use of the Domestic Companies' Services or Products in any Security Incident, this shall constitute a breach of this Agreement.

4.4. Indemnification of Security Directors, and Security Officer. The Companies shall indemnify and hold harmless the Security Directors and the Security Officer of the Domestic Companies from any and all claims arising from, or in any way connected to, his or her performance as a Security Director or Security Officer under this Agreement except for his or her own individual gross negligence or willful misconduct. The Companies shall advance fees and costs incurred in connection with the defense of such claim. The Companies may purchase insurance to cover this indemnification.

4.5. Non-Waiver of Third Party Claims. Nothing contained in this Article 13 shall be deemed a waiver of any claims or remedies the Companies may have against third parties related to this Agreement.

4.6. Irreparable Injury. The Companies agree that the United States would suffer irreparable injury if for any reason they failed to perform any of their material obligations under this Agreement, and that monetary relief would not be an adequate remedy. Accordingly, the Companies agree that, in seeking to enforce this Agreement, the USG Parties shall be entitled, in

addition to any other remedy available at law or equity, to specific performance and immediate injunctive or other equitable relief.

ARTICLE 5: REPORTING, NOTICE AND LIMITS

5.1. Outsourcing. The Domestic Companies shall not outsource functions covered by this Agreement, except pursuant to an outsourcing policy to be negotiated with the USG Parties. Such policy shall include prior notice of the proposed outsourcing and the right of the USG Parties to object within thirty days of receipt of notice to the proposed outsourcing. The parties agree to exclude from this notice and approval requirement outsourcing contracts that do not provide Access to Call Associated Data, Classified Information, Customer Information, Domestic Communications, Domestic Communications Infrastructure, Sensitive Information, Subscriber Information, Transactional Data, U.S. Hosting Data, or USG Customer Information. Further:

(i) the Domestic Companies shall ensure that the entity complies with the applicable terms of this Agreement;

(ii) the Domestic Companies shall include in its contracts with any such entities written provisions requiring that such entities comply with all applicable terms of this Agreement (and otherwise ensure that such entities are aware of, agree to, and are bound to comply with the applicable obligations of this Agreement);

(iii) if the Domestic Companies are reasonably uncertain as to whether an outsourcing contract is covered by the outsourcing policy, they shall include in the contract a provision that such contract may be terminated should the USG Parties object to the contract, shall notify the USG Parties within thirty days of executing the contract, which notice shall identify the name of the entity and the nature of the contract, and the USG Parties shall have 30 days from notice in which to object to the outsourcing contract;

(iv) if the Domestic Companies learn that the entity or the entity's employee has violated an applicable provision of this Agreement, the Domestic Companies will notify the USG Parties promptly; and

(v) with consultation and, as appropriate, cooperation with the USG Parties, the Domestic Companies will take reasonable steps necessary to rectify promptly the situation, which steps may (among others) include terminating the arrangement with the entity, including after notice and opportunity for cure, and/or initiating and pursuing litigation or other remedies at law and equity. Peering, interconnection and purchase of local access service shall not constitute outsourced functions for purposes of this Agreement.

5.2. Notice of Foreign Influence. If any member of the senior management of América Móvil or the Domestic Companies (including the Chief Executive Officer, President, General Counsel, Chief Technical Officer, Chief Financial Officer, Head of Network Operations, Head of Security, Security Officer, or other such senior officer) acquires any information that reasonably indicates that any Foreign Person has acted or plans to act in any way that interferes with or impedes the

performance by the Domestic Companies of their duties and obligations under the terms of this Agreement, or the exercise by the Domestic Companies of their rights under this Agreement, then such member shall promptly cause to be notified the Security Officer, who in turn shall promptly notify the USG Parties in writing of the timing and the nature of the foreign government's or entity's plans and/or actions.

5.3. Reporting of Incidents. The Domestic Companies shall take practicable steps to ensure that, if any of their officers, directors, employees, contractors or agents acquire any information that reasonably indicates: (a) a breach of this Agreement; (b) access to or disclosure of U.S. Hosting Data or Domestic Communications, or the conduct of Lawfully Authorized Electronic Surveillance, in violation of Federal, state or local law or regulation; (c) access to or disclosure of CPNI or Subscriber Information in violation of Federal, state or local law or regulation (except for violations of FCC regulations relating to improper commercial use of CPNI); or (d) improper access to or disclosure of Classified or Sensitive Information, then the individual will notify the Security Officer or a Security Director, who will in turn notify the USG Parties in the same manner as specified in Section 5.2. This report shall be made promptly and in any event no later than ten calendar days after the Domestic Companies acquire information indicating a matter described in this Section 5.3(a)-(d) of this Agreement. The Domestic Companies shall lawfully cooperate in investigating the matters described in this Section of this Agreement. The Domestic Companies need not report information where disclosure of such information would be in violation of an order of a court of competent jurisdiction in the United States.

5.4. Non-Retaliation. The Domestic Companies shall, by duly authorized action of their respective boards of directors, adopt and distribute an official corporate policy that strictly prohibits any of the Domestic Companies from discriminating or taking any adverse action against any officer, director, employee, contractor or agent because he or she has in good faith initiated or attempted to initiate a notice or report under Sections 5.2 and 5.3 of this Agreement, or has notified or attempted to notify directly the Security Officer or a Security Director named in the policy to convey information that he or she believes in good faith would be required to be reported to the USG Parties by the Security Officer or a Security Director under Sections 5.2, and 5.5 of this Agreement. Such corporate policy shall set forth in a clear and prominent manner the contact information for the Security Officer or one or more Security Directors to whom such contacts may be made directly by any officer, director, employee, contractor or agent for the purpose of such report or notification. Any violation by the Domestic Companies of any material term of such corporate policy shall constitute a breach of this Agreement.

5.5. Annual Report. On or before the last day of January of each year, the Security Officer shall submit to the USG Parties a report assessing Domestic Companies' compliance with the terms of this Agreement for the preceding calendar year. The report shall include:

(i) a certification of compliance with this agreement, signed by the Security Officer;

(ii) a copy of the policies and procedures adopted to comply with this Agreement;

(iii) a summary of any known acts of material noncompliance with the terms of this Agreement, whether inadvertent or intentional, with a discussion of what steps have been or will be taken to prevent such acts from occurring in the future; and

(iv) identification of any other issues that, to Domestic Companies' knowledge, will or reasonably could affect the effectiveness of or compliance with this Agreement. The Domestic Companies shall make available to the Security Officer, in a timely fashion, all information necessary to complete the report required by this Section.

5.6. Third Party Network Security Audits. The Domestic Companies shall retain and pay for a neutral third party telecommunications engineer to audit its operations objectively on an annual basis. The Domestic Companies shall provide notice of its selected auditor to the USG Parties, and the USG Parties shall be able to review and approve or disapprove the selected auditor and terms of reference for that auditor within thirty days of receiving notice. In addition, the Domestic Companies shall provide to the USG Parties a copy of its contract with the third party auditor, which shall include terms defining the scope and purpose of the audits. The USG Parties shall have the right to review and approve the terms defining the scope and purpose of the audits. Through its contract with the third party auditor, the Domestic Companies shall ensure that all reports generated by the auditor are provided promptly to the USG Parties. The Domestic Companies also will provide the USG Parties with access to facilities, information, and personnel consistent with Sections 3.22 in the event that the USG Parties wish to conduct their own audit of the Domestic Companies. The terms defining the scope and purpose of the audits shall include, at a minimum, the following:

(i) Development of an initial vulnerability and risk assessment based on this Agreement, and a detailed audit work plan based on such assessment, which work plan may, at the discretion of the USG Parties, be subject to review and approval by the USG Parties;

(ii) Authority for the auditor to review and analyze the Domestic Companies' security policies and procedures related to network security;

(iii) Authority to audit the integrity of password systems, review access logs, review logs regarding any access to a capability to conduct electronic surveillance, conduct switch audits to discover "Free Line Service" accounts;

(iv) Authority for the auditor to review and analyze relevant information related to the configuration of the Domestic Companies' network;

(v) Authority for the auditor to conduct a reasonable number of unannounced inspections of the Domestic Companies facilities;

(vii) Authority for the auditor to conduct a reasonable volume of random testing of network firewalls, access points and other systems for potential vulnerabilities;

(viii) Other authorities related to network security as agreed by the parties after consultation with the USG Parties.

ARTICLE 6: FREEDOM OF INFORMATION ACT

6.1. Protection of Information. The USG Parties shall fully comply with any and all applicable U.S. laws and regulations relating to the confidentiality and protection of information

supplied to the USG Parties by the Companies pursuant to the terms of this Agreement, including obligations under 50 App. U.S.C. § 2170(c), 31 C.F.R. § 800.702, and 18 U.S.C. § 1905.

6.2. Use of Information for U.S. Government Purposes. The USG Parties shall use information supplied to the USG Parties by the Companies pursuant to this Agreement only for the purposes set forth in this Agreement. Nothing in this Agreement shall prevent USG Parties from lawfully disseminating information as appropriate to seek enforcement of this Agreement, or from lawfully sharing information as appropriate with other federal, state, or local government authorities to protect public safety, law enforcement, or national security interests, provided that USG Parties take all reasonable measures to protect from public disclosure the information marked as described in Section 6.3.

6.3 FOIA Confidentiality. To the extent so marked by the Companies, all information supplied to the USG Parties by the Companies pursuant to the terms of this Agreement contains proprietary, trade secret, commercial, or financial information, and shall be deemed voluntarily provided pursuant to a request for confidentiality, and is exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) under Exemption (b)(4).

ARTICLE 7: FCC CONDITION AND CFIUS PROCESS

7.1 FCC Approval. Upon execution of this Agreement by all the Parties, the FBI, DOJ and DHS shall promptly notify the FCC that, provided the FCC adopts a condition substantially the same as set forth in Appendix B to this Agreement, the FBI, DOJ and DHS have no objection to the grant of América Móvil's Petition for Declaratory Ruling and applications filed with the FCC as reflected in WT Docket No. 06-113. This Section 7.1 is effective upon the Effective Date.

7.2. CFIUS. In consideration for the execution of this Agreement, the USG Parties will not make any objection to CFIUS or the President concerning the Transaction.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.1. Obligations of América Móvil. América Móvil shall cause the Domestic Companies to comply with this Agreement and, where appropriate, shall act through their subsidiaries to discharge their obligations under this Agreement.

8.2. Corporate Structure. As soon as possible prior to the Closing Date, the Companies shall provide to the USG Parties a description of the contemplated corporate structure of the Companies as it relates to América Móvil's ownership and control of the Domestic Companies (the "Corporate Structure"), including the placement of the subsidiaries within the Corporate Structure that will be in effect as of the Closing Date, which description shall be included as Appendix C to this Agreement. The description shall identify the parent company or companies of each of the Companies and the subsidiaries in the Corporate Structure. Following the Closing Date, the Companies shall notify the USG Parties prior to any modification of the Companies' Corporate Structure and shall provide an updated description, which shall be incorporated into Appendix C; provided that if a modification to the Corporate Structure does not change the entity that Controls the Companies, then the Companies shall notify the USG Parties of the change within 30 days after consummation of the change, which shall be incorporated into Appendix C.

8.3. Right to Make and Perform Agreement. The Parties represent that they have and shall continue to have throughout the term of this Agreement the authority and full right to enter into this Agreement and perform the obligations hereunder, and that this Agreement is a legal, valid, and binding obligation of the Parties and is enforceable in accordance with its terms.

8.4. Headings. The Article headings and numbering in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of the terms of this Agreement.

8.5. Other Laws. Nothing in this Agreement is intended to limit or alter or constitute a waiver of (a) any obligation imposed on the Companies, their Personnel, or their agents by any U.S. federal, state or local laws, (b) any enforcement authority available under any U.S. federal, state, or local laws, (c) the sovereign immunity of the United States, (d) any authority or jurisdiction the U.S. Government may possess over the activities of the Companies, their Personnel, or their agents located within or outside the United States, or (e) any rights of the Companies, their Personnel, or their agents under the U.S. Constitution, any state constitution, or any U.S. federal, state, or local laws. Nothing in this Agreement is intended to or is to be interpreted to require the Companies, their Personnel, or the USG Parties to violate any applicable U.S. law. Likewise, nothing in this Agreement limits the right of the U.S. Government to pursue criminal or civil sanctions or charges against the Companies or their Personnel in an appropriate case, and nothing in this Agreement provides the Companies, their Personnel, or their agents with any relief from civil liability in an appropriate case.

8.6. Choice of Law. This Agreement shall be governed by and interpreted according to the laws of the District of Columbia.

8.7. Forum Selection. Any civil action among the Companies and the USG Parties for judicial relief with respect to any dispute or matter whatsoever arising under, in connection with, or incident to, this Agreement shall be brought, if at all, in the United States District Court for the District of Columbia or the United States Court of Federal Claims.

8.8. Integrated Agreement. This Agreement and all appendices hereto is a fully integrated agreement.

8.9. Statutory and Regulatory References. All references in this Agreement to statutory and regulatory provisions shall include any future amendments or revisions to such provisions.

8.10. Effectiveness of Agreement. Except as otherwise specifically provided in the provisions of this Agreement, the obligations imposed and rights conferred by this Agreement shall take effect upon the Closing Date.

8.11. Modifications. This Agreement may only be modified by written agreement signed by all of the Parties.

8.12. Non-Parties. Nothing in this Agreement is intended to confer or does confer any rights on any person other than the Parties.

8.13. Changes in Circumstances for USG Parties. If, after the Closing Date, the USG Parties find that the terms of this Agreement are inadequate to address their national security concerns, then the Companies will negotiate in good faith to modify this Agreement to address those concerns. In the event that improvements in technology may enhance the efficacy of this Agreement to protect the national security, the Parties will negotiate promptly and in good faith to amend the Agreement to implement such advances.

8.14. Termination. After the Closing Date, this Agreement may be terminated at any time by a written agreement signed by the Parties.

8.15. Termination of Stock Purchase Agreement. If the Stock Purchase Agreement is terminated prior to the Closing Date, the Companies shall promptly provide written notification of such termination to the USG Parties, and upon receipt of such written notice, this Agreement shall automatically terminate.

8.16. Severability. The provisions of this Agreement shall be severable, and if any provision thereof or the application of such provision under any circumstances is held invalid by a court of competent jurisdiction, it shall not affect any other provision of this Agreement or the application of any provision thereof.

8.17. Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile, each of which shall together constitute the same instrument.

8.18. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns; for purposes of this Agreement, successors and assigns under this Section shall include any corporate name changes.

8.19. Notices. As of the Closing Date, all notices and other communications given or made relating to this Agreement, such as a proposed modification, shall be in writing and shall be deemed to have been duly given or made as of the date of receipt and shall be sent by electronic mail and by one of the following means: (a) delivered personally, (b) sent by facsimile, (c) sent by documented overnight courier service, or (d) sent by registered or certified mail, postage prepaid, addressed to the Parties' designated representatives at the addresses shown below, unless provided otherwise in this Agreement; provided, however, that upon written notification to the Parties, any party to this Agreement may unilaterally amend or modify its designated representative information, notwithstanding any provision to the contrary in this Agreement:

For América Móvil and TELPRI:
América Móvil, S.A. de C.V.:
Alejandro Cantú Jiménez
Lago Alberto 366
Torre 1, Piso 2
Colonia Anáhuac
11320 Mexico, D.F.
011-52-525-703-3990
acantu@americamovil.com

For the U.S. Department of Justice:
Christopher P. Simkins
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 2311
Washington, D.C. 20530
(202) 305-8761 (phone)
(202) 305-8565 (fax)
christopher.simkins@usdoj.gov

For the U.S. Department of Homeland Security:
Sanchitha Jayaram
Office of the Assistant Secretary for Policy
U.S. Department of Homeland Security
NAC, Building 17-134
Anacostia Naval Annex, Bldg 410
245 Murray Lane, SW
Washington, D.C. 20528
(202) 447-3817 (phone)
(202) 282-8503 (fax)
IP-CFIUS@DHS.GOV

This Agreement is executed on behalf of the Parties:

América Móvil, S.A. de C.V.

Date: By:_____
Name:
Title:

Telecomunicaciones de Puerto Rico, Inc.

Date: By:_____
Name:
Title:

United States Department of Justice

Date: By:_____
Name:
Title:

United States Department of Homeland Security

Date: By:_____
Name:
Title:

APPENDIX A

TELPRI SECURITY POLICIES AND PROCEDURES

APPENDIX B

CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses related thereto are subject to compliance with the provisions of the Agreement attached hereto between América Móvil, S.A. de C.V., on behalf of itself and its subsidiaries through which it will hold its interest in TELPRI ("América Móvil), and Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), (collectively, "the Companies"), on the one hand, and the U.S. Department of Justice ("DOJ"), and the U.S. Department of Homeland Security ("DHS"), on the other (collectively, "the USG Parties"), dated _____, 2006, which Agreement is intended to enhance the protection of U.S. national security, law enforcement, and public safety. Nothing in this Agreement is intended to limit any obligation imposed by Federal law or regulation.

APPENDIX C

CORPORATE STRUCTURE

It is hereby certified that the forgoing document has been served via first-class mail or electronic mail on Friday, December 15, 2006, upon all interested parties and counsel as follows:

Susan Singer
Wireless Telecommunications Bureau
Federal Communications Commission
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Susan.singer@fcc.gov

Susan O'Connell
Policy Division
International Bureau
Federal Communications Commission
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Jodie May
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Verizon
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Arlington, VA 22201

John Reynolds
Amy Duntham
Wiley, Rein, and Fielding, LLP
1776 K Street NW
Washington, DC 2000

APPENDIX C

[DEPARTMENT OF DEFENSE PETITION TO ATTACH CONDITIONS]

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of Verizon Communications, Inc., Transferor and América Móvil, S.A. de C.V., Transferee Applications for Consent to Transfer of Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act	WT Docket No. 06-113 File Nos. 0002597508 DA 06-1245

DEPARTMENT OF DEFENSE TO ADOPT CONDITIONS

The Department of Defense (DoD) respectfully submits this Petition to Adopt Conditions to Authorizations and Licenses ("Petition"), pursuant to Section 1.41 of the Commission's rules. 47 C.F.R. § 1.41. Through this Petition, the Department advises the Commission that they have no objection to the Commission granting its consent in the above-referenced proceeding, provided that the Commission conditions such authorization on América Móvil, S.A. de C.V. ("America Movil"), and Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), abiding by the commitments and undertakings set forth in their Commitment Letter, which is attached hereto as Exhibit 1.

In the above-captioned proceeding, Verizon Communications, Inc. and its indirect subsidiary Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), transferor, and América Móvil S.A. de C.V. ("América Móvil"), transferee, have submitted applications and petitions seeking the Commission's consent to Verizon Communications Inc.'s transfer to América Móvil licenses

for the Part 22 Cellular Radiotelephone Service, the Part 24 Personal Communications Service, the Part 90 Industrial/Business Pool Service, and the Part 101 Common Carrier Fixed Point-to-Point Microwave Service and Digital Electronic Message Service, as well as domestic and international Section 214 authorizations, and other assets. Because América Móvil is organized under the laws of Mexico, the companies also requested a declaratory ruling that the transaction is consistent with the public interest standard of Section 310(b)(4) of the Act.

After discussions with representatives of the applicant companies, the DoD has concluded that the commitments set forth in the Commitment Letter will adequately safeguard the Department's ability to realign military installations as mandated by the 2005 Defense Base Closure and Realignment Commission,[1] and will ensure appropriate security controls remain in place to protect sensitive military communications; the conditions contained in the Commitment Letter demonstrate agreement by the grantees that they will undertake to meet existing TELPRI subsidiaries' contractual obligations, and to support appropriate contingency responses necessary to defend America.

The Commission has consistently recognized the role that considerations of national security, law enforcement, and public safety play in the Commission's public interest determinations, and the Commission has adopted the now long-standing policy of deference towards other federal agencies with expertise in these areas.[2]

Accordingly, the Department hereby advises the Commission that it has no objection to the Commission granting the above-referenced applications, provided that the Commission

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[1] Consistent with the Defense Base Closure and Realignment Act of 1990, as amended (Public Law 101-510) November 5, 1990.

[2] *In the Matter of Rules and Policies of Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23,891, ¶ 61 (Nov. 1997).

conditions its consent on compliance by the grantees with the commitments set forth in the attached Letter. The Department is also withdrawing its Petition to Defer filed in this proceeding on December 14, 2006.

Respectfully submitted,

CARL WAYNE SMITH
General Counsel
Defense Information Systems Agency
Post Office Box Number 4502
Arlington, VA 22204-4502
(703) 607-6759

HILLARY JEAN MORGAN
Deputy General Counsel, Regulatory and International Law
Defense Information Systems Agency
Post Office Box Number 4502
Arlington, VA 22204-4502
(703) 607-6092

Dated: December 19, 2006

Exhibit 1

December 19, 2006

Ms. Hillary J. Morgan
Deputy General Counsel for Regulatory and International Law
Defense Information Systems Agency, Office of the General Counsel
P.O. Box 4502
Arlington VA 22204-4502

Mr. Terrance A. Spann
Deputy Chief, Regulatory Law and Intellectual Property Division
Mr. Stephen S. Melnikoff
Principal Telecommunications Trial Counsel
Regulatory Law Office, U.S. Army Litigation Center
Office of the Judge Advocate General
901 N. Stuart Street, Suite 700
Arlington, VA 22203-1837

Office of the Staff Judge Advocate
ATTN: Mr. Gregory A. Lund
2387 Hatfield Street, Building 51102
Fort Huachuca, AZ 85613-5000

Re: Application for FCC Consent to Transfer Control of Telecomunicaciones de Puerto Rico, Inc. from Verizon to América Movil (WT Docket No. 06-113)

Dear Madam and Sirs:

By this letter, Telecomunicaciones de Puerto Rico, Inc. and its operating subsidiaries, Puerto Rico Telephone Company, Inc. and PRT Larga Distancia, Inc. ("TELPRI"), and América Móvil, S.A. de C.V. and the subsidiaries through which América Móvil will hold its interest in TELPRI ("América Móvil" and, together with TELPRI, the "Companies"), agree to undertake the following obligations with respect to the United States Department of Defense, as well as all its sub-agencies (the "DoD", and together with other U.S. Government agencies on whose behalf DoD contracts for telecommunications services in the Commonwealth of Puerto Rico, "DoD Entity"). The obligations set forth in this letter shall be effective as of the date América Movil consummates the acquisition of TELPRI.

1. The Companies agree to maintain all existing TELPRI security policies and procedures (contained in proprietary commercial documents provided voluntarily and in confidence to DoD) for a minimum of 120 days. After the acquisition of TELPRI is consummated, América Móvil agrees, upon written request of DoD, to provide DoD with access to TELPRI staff, facilities and network data in order to assess compliance with TELPRI's published security policies and processes.

2. Except in emergency circumstances, should any of the Companies' employees require regular access to any DoD (or DoD Entity) restricted or controlled area(s) to initiate or maintain service (such areas to have been previously identified to the Companies' Security Officer), the Companies agree to provide each such employee's identification information, including the full name, Social Security Number (or equivalent residency authorization documentation number), as well as date and place of birth, to the previously specified security point of contact for the DoD (or DoD Entity), thirty (30) days prior to seeking initial entry to those locations.

3. After the Security Officer has been advised that a DoD Entity is the direct customer of another communications carrier, before terminating any existing access, interconnection, peering, or resale arrangement with that carrier, the Companies will provide notice to the DoD Entity, allowing thirty (30) days for the DoD Entity to respond prior to such termination.

4. The Companies understand DoD Entities may need to realign their activities in Puerto Rico in the future. TELPRI on-island business, engineering and technical staff will participate in coordination with DoD representatives for planning and implementation purposes, and will promptly provide necessary technical data to support the DoD's operational needs. Upon written request, the Companies will meet and confer with any U.S. government official designated by the DoD to address any concerns with respect to these matters.

5. Consistent with the Contract Disputes Act of 1978, 95 P.L. 563; 92 Stat. 2383 (as amended) which appears generally as 41 USCS §§ 601 et seq., management of TELPRI, when advised of operational needs of DoD Entities which are direct or indirect customers of TELPRI, will meet the DoD Entity's needs, then subsequently seek resolution though the statutory process laid out in the Act.

The Companies understand that, upon execution of this letter, the DoD shall notify the Federal Communications Commission ("FCC") that the DoD has no objection to the FCC's grant of the applications referenced above.

Respectfully Submitted,

América Móvil, S.A. de C.V.

Alejandro Cantú Jiménez
Title: General Counsel

APPENDIX A

CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses related thereto are subject to compliance with the provisions of the Agreement attached hereto between América Móvil, S.A. de C.V., on behalf of itself and its subsidiaries through which it will hold its interest in TELPRI ("América Móvil), and Telecomunicaciones de Puerto Rico, Inc. ("TELPRI"), (collectively, "the Companies"), on the one hand, and the U.S. Department of Defense (DoD), on the other, dated _____, 2006, which Agreement is intended to enhance the protection of U.S. national security and public safety. Nothing in this Agreement is intended to limit any obligation imposed by Federal law or regulation.

It is hereby certified that the forgoing document has been served via electronic mail on Tuesday, December 19, 2006, upon all interested parties and counsel as follows:

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Hon. Kenneth D. McClintock
President, Senate of Puerto Rico
Hon. Orlando Parga
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dgoldman@cwa-union.org

APPENDIX D

[LETTER FROM MICHAEL G. JONES, WILLKIE FARR & GALLAGHER, TO MARLENE DORTCH, SECRETARY, FEDERAL COMMUNICATIONS COMMISSION, DATED MARCH 23, 2007]

WILLKIE FARR & GALLAGHER LLP

1875 K Street, NW
Washington, DC 20006

Tel: 202 303 1000
Fax: 202 303 2000

March 23, 2007

VIA ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Application for Consent to the Transfer of Control of Telecomunicaciones de Puerto Rico, Inc. from Verizon to América Móvil (WT Docket. No. 06-113)

Dear Ms. Dortch:

On March 22, 2007, and on March 23, 2007, in all cases following the conclusion of the Commission's Open Meeting on March 22nd, undersigned counsel to América Móvil, S.A.B. de C.V. ("América Móvil") spoke with Daniel Gonzalez, Chief of Staff of the Federal Communications Commission ("FCC"), Michelle Carey, Senior Legal Advisor to FCC Chairman Kevin J. Martin, Scott Deutchman, Legal Advisor to Commissioner Michael J. Copps, and Barry Ohlson, Senior Legal Advisor to Commissioner Jonathan S. Adelstein, regarding the continued prosecution of the above-referenced application following its removal from the agenda for the Commission's March 22nd meeting.

With respect to the above-referenced applications, América Móvil hereby states that it is committed to investing directly or through TELPRI $1 billion over five years in communications and/or information services in Puerto Rico, and that these investments will promote improvements in these services.

Please direct any questions to the undersigned.

Respectfully submitted,

/s/ Michael G. Jones
Michael G. Jones
WILLKIE FARR & GALLAGHER LLP
Counsel to América Móvil, S.A.B. de C.V.

cc: Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
Daniel Gonzalez
Michelle Carey
Scott Deutchman
Barry Ohlson
Aaron Goldberger
John Hunter
Angela Giancarlo