

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

January 8, 2001

In the Matter of

VOICESTREAM WIRELESS
CORPORATION, and

POWERTEL, INC.,

Transferors,

IB Docket No. 00-187

and

DEUTSCHE TELEKOM AG,

Transferee,

Applications for Consent to Transfer of Control

**REPLY IN SUPPORT OF
APPLICATIONS FOR CONSENT TO TRANSFER OF CONTROL**

**ETNO Reply to Comments on the Deutsche Telekom/VoiceStream/Powertel
Applications to the FCC for Consent to Transfer of Control**

The European Telecommunications Network Operators' Association (ETNO) welcomes the opportunity to submit this reply to the comments in the above-captioned proceeding. ETNO is the principal Trade Association for European telecoms operators representing 44 companies. The main objective of the Association is to encourage and contribute to a constructive dialogue with other actors involved in the development of the Information Society, for the benefit of users. ETNO thus contributes to the development of policies leading to an efficient and fair regulatory and trading environment for European telecommunications operators in Europe and abroad.

During the last months, ETNO had expressed significant concerns about Senator Hollings' legislative proposal to ban ownership of common carrier radio licenses by foreign operators with more than 25% state ownership. Consequently, ETNO highly appreciated that this proposal did not go through.

The question of a European operator's possible entry into the U.S. telecommunications market arises again in the matter of Deutsche Telekom's, VoiceStream's and Powertel's applications to


the Federal Communications Commission (FCC) for consent to the transfer of control. Although the applications form part of a specific proceeding, ETNO puts forward its position since compliance with the provisions of the WTO Basic Telecommunications Agreement (BTA) is at stake.

The potential rejection by the FCC of the applications for transfer of control would clearly contradict WTO rules and U.S. WTO commitments. In its BTA schedules, the United States did not place any limitations on indirect market access to the U.S. telecommunications market. The commitment to allow indirect foreign ownership was given irrespective of any government ownership. Restrictions were only made with regard to direct market access in special foreign ownership constellations. For example, direct market access may not be granted to or licenses held by a foreign government or the representative thereof. When an operator from the European Union that is still partly state-owned merges with a U.S. operator, the respective government does neither obtain direct control over U.S. licenses nor is the EU operator, which might even be quoted on the N.Y. Stock Exchange, a representative of its shareholding government¹.

As far as comments from U.S. parties are concerned, which claim that regulatory conditions in Europe violate WTO rules, they could be raised with the USTR. Some parties have proposed in their comments² conditions that concern national regulatory questions. Such conditions are not acceptable, as they would imply a revival of the Effective Competitive Opportunities test for WTO Member States which would be inconsistent with the prohibition of the principle of reciprocity.

Furthermore, the strong competition in the EU telecommunications market since its full liberalisation in 1998 has mainly developed because of the very liberal market access rules in the European Union. Many U.S. telecommunications companies have since taken advantage of the open market conditions in Europe. In comparison, the number of EU companies engaged in the U.S. telecommunications market is much lower. In consideration of this difference, the rejection - in contravention of WTO rules - of one of the few participation intentions of an EU company in the U.S., would appear to be rather protectionist.

ETNO urges the Federal Communications Commission to comply fully with the WTO commitments made by the U. S. and to authorise the proposed transfer of control.

 Michael Bartholomew ETNO Director	
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¹ Consequently, Senator Hollings' argumentation (see Comments of Senator Hollings at 1, 4-9) that in partly state-owned EU companies the government would exercise direct control over and influence the combined entity post-transaction is not correct.

² See Comments of Global TeleSystems at iii, 24-25; Comments of QS Communications at 29

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