December 16, 2011

VIA E-MAIL
www.regulations.gov
USTR-2010-0034

Mr. Donald Eiss
Acting Chair, Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Mr. Eiss:

Pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 3106 (“Section 1377”), COMPTEL hereby responds to the request of the Office of the United States Trade Representative (“USTR”) for comments regarding compliance with U.S. telecommunications trade agreements.

COMPTEL is the leading industry association representing communications service providers and their supplier partners. COMPTEL members are entrepreneurial companies building and deploying next-generation networks to provide competitive voice, data, and video services.

COMPTEL appreciates the opportunity to present its members’ experiences in a number of countries which have undertaken specific commitments with regard to telecommunications services as part of their WTO obligations. This year our filing is limited to a report of recent developments that will finally spur competition in the Mexican market. Mexico is one of the most important markets for U.S. carriers and consumers. In 2009, Mexico accounted for over 12 billion minutes according to the Federal Communications Commission, about the same as the 27 members of the European Union combined.¹

Since last year’s 1377 review, there have been significant positive developments in the establishment of competitive conditions in the Mexican telecommunications market. These developments should lead to significantly lower costs for U.S. consumers calling into Mexico and a more competitive environment for US and US-affiliated carriers operating in Mexico.

First, a decision by the Mexican Supreme Court removed all carriers’ ability to suspend the imposition of a country-wide interconnection rate determined by the Federal Telecommunications Commission (“COFETEL”). In the past, carriers could stymie all efforts by COFETEL to regulate interconnection pricing through litigation claiming COFETEL’s actions violated their constitutional rights (amparo). The Supreme Court decision, however, states that interconnection is an issue in the public interest and not a private business issue. Therefore, COFETEL determinations on interconnection rates can enter into effect upon promulgation, and may not be held in abeyance while their constitutionality is adjudicated.

Second, COFETEL promulgated country-wide interconnection rates, including for non-equal access (“NEA”) areas that vary between 3.9 and 4.5 Mexican centavos. These rates amount to a reduction of interconnection costs of just over 63% in equal access areas and 68% for NEA areas. As a result of the Supreme Court decision, the rates are immediately effective and cannot be stayed by court challenges.

Third, thanks to the efforts of the Office of the U.S. Trade Representative, Telmex has removed the recorded messages that appeared on calls from the United States to Mexico, and on domestic Mexican calls, and has engaged in serious negotiations with at least one of its competitors aimed at resolving many of the issues described in previous filings that have hindered competition for years. Consequently, there are good prospects of solid progress towards achieving a more competitive market in Mexico. Assuming Telmex implements the new interconnection rates and carries out its negotiated agreements, COMPTEL believes that Mexico will begin to fully implement its WTO commitments for the first time.

CONCLUSION

The situation in Mexico has improved in the past year, in part due to the efforts of USTR. COMPTEL urges USTR to continue its vocal support for full implementation of Mexico’s WTO commitments for the benefit of U.S. consumers and competitive carriers.
There are issues raised in previous COMPTEL filings that have not been resolved, such as the inability of COFETEL to carry out consolidation of calling areas because of Telmex court action. Many of these issues will be resolved if Telmex implements the interconnection rates adopted by COFETEL and its negotiated agreements. It is too soon to say but COMPTEL will keep USTR informed of developments – both positive and negative that affect U.S. competitive carriers’ access to the Mexican market and U.S. consumers.

Respectfully submitted,

Jerry James
Chief Executive Officer