

Separate Statement
of
Commissioner James H. Quello

December 15, 1995

Re: Declaratory Ruling and Order, Sprint Corporation Petition for Declaratory Ruling Concerning Section 310(b)(4) & (d) and the Public Interest Requirements of the Communications Act of 1934 (File No. I-S-P-95-002)

I am writing separately to emphasize that I strongly endorse the carefully balanced approach taken in this Declaratory Ruling and Order. Furthermore, I wish to emphasize that my decision to vote in favor of allowing the proposed transaction to go forward is founded upon the explicit commitments by the governments of France and Germany to proceed on a definite timetable toward full liberalization of their telecommunications markets.

The transaction before us is the first to be adjudged under the principles established in the ECO (Effective Competitive Opportunities) test. As I stated when this Commission adopted the ECO test, this comprehensive approach brought needed clarification and structure to what is necessarily a case-by-case analysis. Each business alliance and structure is fact-specific and unique in many respects.

We have carefully weighed the complex aspects of this \$4 billion dollar plus (equivalent) transaction and have imposed appropriate conditions, *e.g.*, the restriction on circuit activation, that will encourage all parties to live up to their commitments. Although the proposed Phoenix transaction does not pass regulatory muster under this Commission's ECO test -- because there are neither *de jure* nor *de facto* effective competitive opportunities in France and Germany for U.S. companies at this time -- other significant public interest factors militate in favor of approving the deal.

I note approvingly that France and Germany are committed to the European Union Directive to liberalize telecommunications by 1998. There are, however, significant interim measures that each can take by their own internal decision. For example, the commitment to allow the resale of their switched services within the next several months is entirely within the discretion of France Telecom and Deutsche Telekom. The conditions imposed in this ruling provide incentives for them to continue to open their markets. I strongly encourage them to do so. Imposition of dominant carrier status upon Sprint will allow this Commission to continue oversight and receive timely reports on such developments.

Because of the trade and market implications of this item, the International Bureau has precisely crafted a balanced and fair declaratory ruling. By this Declaratory Ruling and Order the U.S. has once again demonstrated that we are committed to real, demonstrable competition in telecommunications services and will approve the entry of those foreign carriers whose markets evince a similar competitive marketplace.

