

Brussels, 30th March 1999

Commission clears BT/AT&T joint venture with conditions in the UK market

The European Commission has approved the creation of a joint venture between British Telecommunications plc (UK) and AT&T Corp (US). The new company will provide global telecommunications services to multinational companies and international carrier services to other telecommunications companies. The proposed operation was approved after certain co-ordination issues between BT and AT&T in the UK had been resolved through undertakings submitted by AT&T. This is the first decision taken after a second-phase enquiry which has involved the assessment of co-ordination effects under the new Article 2(4) of the Merger Regulation that entered into force on 1 March 1998.

The decision approved is the formal conclusion of an in-depth inquiry which the Commission started on 3 December 1998, following its preliminary investigation after the notification of the operation on 3 November 1998. The Commission examined in-depth four major areas where the operation could possibly lead to a creation or strengthening of a dominant market position: the area of global telecommunications services for multinational corporate customers, international carrier services, telecommunications services on the UK-US route and certain international voice telephony services in the UK. Furthermore, it investigated possible co-ordination effects of the proposed joint venture in the UK between ACC, a wholly-owned subsidiary of AT&T, between BT and Telewest, in which AT&T through TCI holds a 22% stake and regarding the distribution of AT&T/Unisource services in the UK.

The Commission acknowledged that the current state of competition in these international markets offered the necessary environment to enable the venture to go forward. On the global telecommunications services market, the parties have a combined market share of between 30-50%. This is a dynamic market, and there are a number of competitors such as MCI WorldCom, GlobalOne and Equant present on the market as well as a substantial number of potential competitors. On the international carrier services market, it appears that the parties' combined share of total international bilateral traffic is around 18% with an increasing number of competitors, both at pan-European and global levels, part of them due to the availability of increasing amounts of capacity at a fast decreasing cost. On the UK-US route, the parties have about half the traffic flows in either direction but less than 20% of the capacity, with plentiful additional capacity available which is falling in price thus permitting the entry of new competitors on this already very competitive route. As for the UK market, no evidence of the creation or strengthening of a dominant position could be found that would have resulted from the creation of the joint venture.

However, three co-ordination concerns were identified on UK markets. Apart from those related to ACC and Telewest, a third one appeared in the course of the in-depth investigation, in relation with the distribution of AT&T/Unisource services in the UK. AT&T have offered undertakings which resolve all of these concerns. These undertakings are the divestment of ACC UK, the creation of a greater structural separation between AT&T and Telewest and the ability for another distributor apart from AT&T UK to be appointed to distribute AUCS services in the UK, as AT&T UK will be wound up. Subject to full compliance with these undertakings, the Commission therefore declared the concentration compatible with the common market.

The Commission's approval of this operation makes it in particular possible for the new BT/AT&T joint venture to self correspond on the UK-US route. In the light of this decision and of its findings on the competitive state of these international markets, the Commission will also review current submissions concerning the lifting of conditions attached to other decisions it has taken in this area, in particular the Atlas/GlobalOne decisions, in order to further foster competition.

Background

BT is currently the fifth biggest telecommunications operator world-wide by turnover. Its principal activity is the supply of telecommunications services and equipment in the UK. BT is also active internationally, notably in Europe through Concert (wholly owned subsidiary) and other European joint ventures such as Cegetel in France, Viag Interkom in Germany, and Albacom in Italy.

AT&T is currently the second biggest telecommunications operator world-wide by turnover, and first US long distance telecommunications operator. AT&T is also active internationally, notably in the UK where it operates a group of wholly-owned subsidiary companies including AT&T Comms UK, and ACC Long Distance UK, a subsidiary of ACC Corp.. AT&T has also recently completed its merger with Tele-Communications, Inc. (TCI), a US corporation that owns approximately 22% in Telewest Communications, a UK cable company offering television channels, telephony services, data communications services, and Internet access. AT&T currently has a share in AUCS (AT&T- Unisource Communications Services). It is also a member of the WorldPartners alliance which is made up of AT&T, KDD, Singapore Telecom, Unisource and Telstra. Both AUCS and WorldPartners provide global telecommunications services to multinational corporations that AT&T distributes in the US, as well as in the UK for AUCS services.

The parent companies will transfer the bulk of their international telecommunications facilities and other assets, including BT's existing Concert activities, to the joint venture. The joint venture will in particular have transferred to it the parents' existing correspondent contracts, submarine cable ownership, cable landing stations and Indefeasible Rights of Use (IRUs) interests in cables. The joint venture will initially target large multinational companies in the financial services, petroleum and IT sectors. The parent companies, and other distributors, will distribute products to other multinational companies.

The notifying parties have informed the Commission that as well as the divestiture of ACC UK, AT&T intended to withdraw from its UK communications business and its interests in AUCS, World Partners, and Arcor (Germany), at the end of a transitional period.

The operation was notified on 3 November 1998. Following a preliminary enquiry, the Commission adopted a decision to launch an in-depth enquiry on 3 December 1998¹, after it had concerns in the following areas:

- the parties' combined market position on the global market for the provision of global telecommunications services to large multinational companies, on that for the provision of international carrier services to other operators, and on the UK market for the provision of international voice telephony services on the UK-US route ;
- the effect of the creation of the joint venture leading to the possible creation or strengthening of a dominant position for certain telecommunications services in the UK.
- possible co-ordination effects of the proposed joint venture in the UK between ACC, a wholly-owned subsidiary of AT&T, and between BT and Telewest, in which AT&T through TCI holds a 22% stake.

The operation is still subject to approval by the US authorities.

¹ see IP/98/1065 of 4 December 1998