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September 1, 2010

Via email: director@fasb.org

Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

RE: File Reference No. 1840-100, Proposed Accounting Standards Update-Contingencies (Topic 450) Disclosures of Certain Loss Contingencies

Dear Sir or Madam:

tw telecom inc. appreciates the opportunity to respond to the Financial Accounting Standards Board regarding the Proposed Accounting Standards Update, Disclosure of Certain Loss Contingencies, an update of Topic 450 (the "Exposure Draft"). **tw telecom inc.** is a leading national provider of managed network services, specializing in Ethernet and data networking, Internet access, local and long distance voice, virtual private network, voice over Internet protocol and network security services to enterprise organizations and communications services companies throughout the U.S. and, for IP-VPN services, to their global locations. We are a publicly traded company listed on the Nasdaq Global Select Stock Market under the symbol TWTC.

In addition to litigation incidental to our business, we are subject to significant government regulation, some of which is uncertain due to legal challenges of existing rules. Such regulation is subject to different interpretations and inconsistent application, and has historically given rise to disputes with other carriers and municipalities regarding the classification of traffic, rights-of-way, rates and minutes of use, among other items. Under the currently effective standards, we estimate and reserve for the liability associated with regulatory and other contingencies.

We recognize the Financial Accounting Standards Board ("FASB") addressed some of the constituent concerns on the original proposal in the current Exposure Draft. However, we have considerable concerns regarding the Exposure Draft and do not support the draft in its current form. We believe that the current guidance in Topic 450 strikes an appropriate balance between providing users of the financial statements with information and protecting companies from disclosing prejudicial information. We also believe that any perceived inadequacies of current disclosure requirements are really the result of the inherent uncertainties of loss contingencies rather than insufficient disclosure.

The quantitative disclosures, including the tabular reconciliation and disclosure of accrual amounts, as contemplated by the Exposure Draft, will likely result in disclosure of prejudicial information related to recognized loss contingencies and even when aggregated by class of contingency. Using readily available database resources such as CourtLink, opposing counsel can conduct comprehensive searches of litigation in nearly all federal district courts and many state courts to make correlations between accruals and active litigation. For companies that do not have a significant number of loss contingencies to aggregate or only one contingency of a certain class or type that cannot be aggregated, adversaries may be able to deduce certain information from the disclosures or associate changes in the accrual with specific developments in the case during a reporting period. Thus, the proposed disclosures could disadvantage defendant companies in settlement negotiations by establishing a floor on any settlement amounts, increasing the possibility of a negative outcome, which is contrary to the interests of investors.

Equally important, as currently drafted, certain aspects of the proposed quantitative information disclosures may result in disclosure of information traditionally protected by the attorney-client privilege. For example, requiring the disclosure of the possible loss or range of loss if the loss contingency is reasonably possible will almost certainly depend upon information given by legal counsel to its client in evaluating the claim.

Third, we believe disclosure of the existence and levels of insurance coverage will increase the number of lawsuits companies face. The rules of civil procedure require disclosure of insurance coverage only to *actual* litigants but the proposed rules would require disclosure of insurance information more broadly to those who would not otherwise have access to such information. Confirmation of the existence and extent of insurance coverage may embolden potential adversaries to file litigation since they now have a confirmed source of potential payment – insurance.

Fourth, regardless of whether it ultimately results in disclosure of remote loss contingencies, the process of identifying and analyzing such contingencies could be challenging and require a significant effort for management and counsel to determine which remote contingencies to disclose, if any. Providing the necessary information to auditors for purposes of auditing management's disclosure could again result in loss of attorney-client privilege or other legal protections. Further, if a company believes that a loss contingency is remote, there is little justification for imposing the burden and risking potential harm from the proposed disclosure.

In addition, we believe that smaller companies, or companies with fewer litigation or other matters constituting loss contingencies may be disproportionately disadvantaged by these expanded disclosure requirements due to their inability to aggregate losses for purposes of disclosure, which may be available to large, more mature companies that are subject to numerous loss contingencies at any point in time.

In summary, we believe that the negative effect on the outcome of litigation and other potential claims resulting from the disclosure of prejudicial information is far more detrimental to our investors, which would put them at a greater risk for loss, than any potential benefit to financial statement users of the additional disclosures. The FASB has indicated that investors and other users "have expressed that disclosures about loss contingencies…do not provide adequate and timely information…" It is not clear to us which investors or investor groups the FASB has consulted with and why they believe that the prejudicial nature of the proposed disclosures would not be detrimental to their investments. In the spirit of transparency, we would encourage the FASB to disclose such information.

If, despite the considerable opposition that has already been expressed, the proposed statement is implemented in some form, we do not believe that it is practicable for entities to implement the proposed statement for fiscal years ending after December 15, 2010.

Companies will require considerable time and effort to meet the requirements of the new standard, including careful consultation with legal counsel regarding adverse impacts to active litigation and to the attorney-client privilege.

We have responded to several of the specific questions posed in the Exposure Draft in the attached Appendix.

Thank you for your consideration.

Sincerely,

/s/ Jill R. Stuart

Jill R. Stuart
Senior Vice President,
Accounting and Finance and Chief Accounting Officer

/s/ Tina Davis

Tina Davis
Senior Vice President and Deputy General Counsel

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APPENDIX

Responses to certain of the specific questions in the Exposure Draft

Question 1. Are the proposed disclosures operational? If not, please explain why?

We do not believe the proposed disclosures in its current form are operational for the reasons stated in our letter.

Question 3. The June 2008 FASB Exposure Draft, *Disclosure of Certain Loss Contingencies*, had proposed certain disclosures based on management's predictions about a contingency's resolution. The amendments in this proposed Update would eliminate those disclosure requirements such as estimating when a loss contingency would be resolved and the entity's maximum exposure to loss. Do you agree that an explicit exemption from disclosing information that is "prejudicial" to the reporting entity is not necessary because the amendments in this proposed Update would:

> **3a. Not require any new disclosures based on management's predictions about a contingency's resolution**
> **3b. Generally focus on information that is publicly available**
> **3c. Relate to amounts already accrued in the financial statements**
> **3d. Permit information to be presented on an aggregated basis with other similar loss contingencies?**

If not, please explain why.

We believe that an explicit exemption from disclosing information that is prejudicial is necessary. Disclosure of amounts accrued, even when aggregated by class or type, will undermine companies' defense strategies. For companies that do not have a significant number of loss contingencies to aggregate or only one contingency of a certain class or type that cannot be aggregated, adversaries may be able to deduce certain information from the disclosures or associate changes in the accrual with specific developments in the case during a reporting period. Database resources available to plaintiff's counsel, such as CourtLink, allow for searches of all open cases in nearly all federal district courts and many state courts that can be used to make correlations between accruals and active litigation. Such disclosures will hamper defenses and provide a strategic disadvantage to a company in a negotiating or settlement position. This could have the unintended effect of establishing a floor on any settlement amounts, thus increasing the possibility of a negative outcome, which would put investors at a greater risk of loss. We believe that smaller companies, or companies with only one significant contingency or only one contingency of a specific type that cannot be aggregated with other types of contingencies, may be significantly disadvantaged by these expanded disclosure requirements because opposing parties may be able to use information in court records to back into the amount of accrual for a specific piece of litigation or claim. Therefore, we believe that an explicit prejudicial exemption is still necessary.

Question 4. Is the proposed effective date operational? If not, please explain why.

We do not believe that it is operational for entities to implement the proposed Accounting Standards Update if effective for fiscal years ending after December 15, 2010. Given that a final standard is not expected to be issued until the fourth quarter, we do not believe this will allow adequate time for the FASB to fully analyze the issues and would raise implementation challenges for public entities with December 31 year ends. Companies will need time to work with legal counsel to gather the required information, draft the required disclosures, determine the class or types of loss contingencies for aggregation, summarize the amounts recorded in the general ledger for the reconciliation which are currently not necessarily captured in the same manner within the general ledger as required in the proposed reconciliation, obtain both internal and external legal counsel's final review; and tag the information for XBRL purposes.

Question 5. Do you believe that the proposed disclosures will enhance and improve the information provided to financial statement users about the nature, potential magnitude, and potential timing (if known) of loss contingencies?

While disclosure of the basis of the claim may give users information about the nature of a loss contingency, disclosure of the amount of damages claimed is not a meaningful measure of the magnitude of the claim as the amount claimed is typically inflated and not indicative of the amount of actual liability. Disclosure of accrued amounts is detrimental to the company's defense, as discussed in our letter. Therefore, we believe that the negative effect on the outcome of litigation and other claims resulting from the disclosure of prejudicial information is far more detrimental to our investors than any potential benefit to financial statement users of the additional disclosures. We also believe that the disclosure of any detail with respect to remote loss contingencies will not be useful to financial statement users.

Question 6. Do you agree that nonpublic entities should be exempt from the tabular reconciliation disclosures required in the amendments in this proposed Update? If not, please explain why. Are there any other aspects of the amendments that should be applied differently to nonpublic entities? If so, please identify and explain why.

No. We believe that information should be accounted and reported in the same manner for all for-profit, non-governmental entities regardless if they are publicly traded. To allow such disparities is counter to the underlying principle of comparability of financial statements.

Question 7. The amendments in this proposed Update would defer the effective date for nonpublic entities for one year. Do you agree with the proposed deferral? If not, please explain why.

No. See our response to Question 6 above.

Question 8. Do you believe that the proposed and existing XBRL elements are sufficient to meet the Securities and Exchange Commission's requirements to provide financial statement information in the XBRL interactive data format? If not, please explain why.

To adequately evaluate the sufficiency of the XBRL elements, we would need to draft our disclosures under the proposed Update, or at the very least determine the class or type that such disclosures would be aggregated. The timeline in which to provide comments does not allow for this; therefore, we are not able to comment on the sufficiency of the XBRL elements.