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August 17, 1995

Kathleen M.H. Wallman
Chief, Common Carrier Bureau
Room 500
Federal Communications
Commission
1919 M St., N.W.
Washington, D.C. 20054

Re: **Integration of Bureau Dockets Involving Competitive Issues with Pending Federal Legislation**: CC Docket Nos. 94-1; 95-116; 92-237; 80-286; DA 93-481; DA 95-1670; DA 95-1445; DA 95-523; DA 95-1329; DA 95-1456; DA 95-1529; FOIA Requests; Control Nos. 94-310, 325, 328

Dear Ms Wallman:

The recent passage of H.R. 1555 by a substantial majority in the House of Representatives, combined with the Senate's earlier passage of S. 652, clearly demonstrates that Congress may finally adopt comprehensive telecommunications legislation sometime later this year. While the precise outlines of this legislation are still uncertain, it will undoubtably charge the Commission with analyzing the extent of competition in various telecommunications markets; removing barriers to competition that still remain; and assisting the states in furthering pro-competitive policies.

I am writing to you on behalf of the Association for Local Telecommunications Services ("ALTS"), a trade association of competitive providers of local exchange and access services, to urge the Commission -- and the Bureau in particular -- to review its current dockets in which competitive issues are being considered in order to insure the Commission is pursuing an integrated substantive and procedural approach to these matters, an approach that will assist rather than impede the Commission's completion of its likely legislative mandate.

Some of the Bureau's current initiatives -- such as number portability (CC Docket No. 95-116), the North American Numbering Plan (CC Docket No. 92-237), and universal service reform (CC Docket No. 80-286) -- are already well positioned to assist the Commission in its legislative task, and ALTS will actively participate in these dockets with that goal in mind.

Unfortunately, there are several other dockets involving competitive issues which would benefit from co-ordination, and from review in light of a rigorous monitoring program. For example, the proper role of dominant carrier regulation in certain limited markets which are being opened to competition is involved in the price cap docket (CC Docket No. 94-1), in Ameritech's "Customers First" waiver request (DA 93-481), in the petitions by Ameritech and Bell Atlantic to be treated as non-dominant carriers for certain purposes (DA 95-1670), in Southwestern Bell's tariff seeking ICB pricing freedom in markets where RFPs have been issued (DA 95-1445), in NYNEX's NRC waiver request (CC Docket No. 95-523), in NYNEX's USPP waiver request (DA 95-1329), in Ameritech's request to be relieved of its Intelligent Network responsibilities based on asserted competition (DA 95-1456); in BellSouth's request for volume and term discounts for services provided over its fiber ring facilities (DA 95-1529); and in the attempt by SWB, Ameritech and Cincinnati Bell to claim cost confidentiality for cost support that is required by Part 69 based on claims of asserted "competition" (e.g., FOIA Requests: Control Nos. 94-310, 325, 328).

Despite the best efforts of the Bureau members who have worked so hard on these proceedings, it is apparent the Bureau has not yet settled on a unified approach for reconciling dominant carrier regulation with emerging competition. For example, the tests of competition that were required in the NYNEX NRC and USPP waiver orders -- tests which ALTS and other parties have challenged as entirely inadequate -- have not been used to evaluate SWB's claims of competitive necessity in refusing to provide the public cost support for its tariffs that is required by Part 69.

Similarly, Ameritech's "Customers First" waiver request is predicated on certain removals of barriers to local competition (see the Department of Justice's Motion dated April 2, 1995, for a Modification of the MFJ that would permit an interLATA experiment for Ameritech). The particular "checklist" conditions that Ameritech would have to complete to obtain its experimental interLATA freedom are paralleled in both the House and Senate legislation, and this Commission would have important responsibilities in overseeing implementation of this "checklist." Although Ameritech's request for waivers of Part 69 in connection with its plan has twice been put out for comments, Ameritech has never been required to submit its checklist for Commission review, even though such an evaluation would be at the heart of the Commission's task under the new legislation (see, e.g., H.R. 1555, §101, creating new 47 U.S.C. § 245). It also would make no sense to consider Ameritech's request to be relieved of its Intelligent Network duties (DA 95-1456) and its dominant carrier status for future long distance operations (DA 95-1670) without first examining Ameritech's claim that it has unleased local competition within its region.

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ALTS urges that the Bureau first start formally monitoring the extent of competition on a granular basis. This would enable the Commission to speak more authoritatively about the extent of actual competition, assuming the program goes beyond a mere geographic survey of competitive market shares and facilities, and also overlays the current status of the remaining barriers to further competition addressed by Congress in the pending legislation, such as the availability of number portability, mutual compensation arrangements, unbundling etc.

By formally recognizing the obvious linkages among these various proceedings, and employing meaningful data on the extent of actual competition, the Bureau would enable itself to start assembling evidence and formulating methodological approaches that will permit prompt and effective discharge of its responsibilities under the new legislation. On the other hand, the continued absence of a coordinated approach will inevitably hamstring its implementation of the new legislation when it tries to reconcile the outcomes of its current ad hoc approach. Turning to the price cap docket as an example, if the Bureau were to propose that the LECs be granted increased pricing flexibility or earnings freedom based on asserted competition in the market for common transport, the Commission will later on have little flexibility to integrate such increased pricing flexibility with its other "checklist" duties under the new legislation.

Poor policy-making and delay are not the only likely outcomes of an uncoordinated approach. Dominant carriers will have important responsibilities in removing current barriers to competition under the new Federal legislation. It is an institutional fact of life that these carriers will not provide meaningful cooperation once the Commission relieves them of their responsibility to file non-discriminatory rates and proper cost support.

In urging a coordinated approach to competition in these various proceedings grounded on a monitoring system which measures the extent of actual competition, ALTS is seeking to expedite Commission action, not delay it. Only an immediate and overarching approach to competition will permit expedited implementation of the legislation. Nor is ALTS demanding that only its own view of the issues be reflected in such a uniform approach. ALTS has supported Ameritech's "Customers First" waiver at the MFJ court, and is prepared to work with the Bureau in formulating a similar approach at the Commission which would permit a prompt and comprehensive approach for resolving these issues.

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ALTS would like the opportunity to speak with you and your staff about particular methodologies and procedures that would help integrate the Bureau's current dockets with its upcoming legislative tasks. I will contact your office about arranging a meeting. Thank you for your consideration in this matter.

Best regards.

Richard J. Metzger

cc: G. Matisse
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