Town&Country
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March 11, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Room 222
Washington, D.C. 20554

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Re: Telecommunications Services - Inside Wiring, Customer Premises Equipment, CS Docket No. 95-184

Dear Mr. Caton:

We write in response to the FCC's Notice of Proposed Rulemaking released on January 26, 1995, regarding telephone and cable wiring inside buildings. We enclosed four (4) copies of this letter, in addition to this original.

We are concerned that any action by the FCC regarding access to private property by large numbers of communications companies may inadvertently and unnecessarily adversely affect the conduct of our business and needlessly raise additional legal issues. The Commission's public notice also raised a number of other issues that concern us.

Background

The Town and Country Management Company is in the residential real estate business. We own and manage 35 apartment communities totalling 13,631 units. We operate in the Mid-Atlantic states of Virginia, Pennsylvania, Maryland and Delaware.

Issues Raised by the FCC's Notice

The FCC's request for comments raises the following issues of concern to us: access to private property; location of the demarcation point; standards for connections, regulation of wiring; and customer access to wiring.

1. Access to Private Property

Access to efficient telephone and cable television service is important to the residents of the buildings we own and manage, and we are committed to making sure that those services are available to the best of our ability.

Government intervention, however, is neither necessary nor desirable to ensure that telecommunications service providers can serve our residents.

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Indeed, we believe that such intervention could have the unintended effect of interfering with our ability to effectively manage our properties. Building owners and managers have a great many responsibilities that can only be met if their rights are preserved, including coordination among tenants and service providers; managing limited physical space; ensuring the security of residents and visitors; and compliance with safety codes. Needless regulation will not only harm our interests, but those of our residents, and the public at large.

A building owner must have control over the space occupied by telephone lines and facilities, especially in a multi-occupant building, because only the landlord can coordinate the conflicting needs of multiple residents and multiple service providers. Although this has traditionally been more of an issue for commercial properties, such coordination may become increasingly important in the residential area as well. Large scale changes in society - everything from increased telecommuting to implementation of the new telecommunication law - are leading to a proliferation of services, service providers and residential telecommunications needs. With such changes, the role of the landlord or manager and the importance of preserving control over raises and conduit space will only grow. For this reason, we believe that the best approach to the issues raised in the request for comments is to allow building owners (if they choose) to retain ownership and control over their property - including inside wiring - so long as they make sufficient capacity available to meet all the needs of the occupants of a building.

A building has a finite amount of physical space in which telecommunications facilities can be installed. Even if that space can be expanded, it cannot be expanded beyond certain limits, and it can certainly not be expanded without significant expense. Installation and maintenance of such facilities involves disruptions in the activities of residents and damage to the physical fabric of a building. Telecommunications service providers are unlikely to consider such factors because they will not be responsible for any ill effects.

We are also concerned about the security of our buildings and our residents. Telecommunications service providers have no such obligation. Consequently, any maintenance and installation activities must be conducted within the rules established by a building's manager, and the manager must have the ability to supervise those activities. Given the public's justified concerns about personal safety, we simply cannot allow service personnel to go anywhere they please in our buildings without our knowledge.

Finally, we are responsible for compliance with local safety and building codes, and we are the front line in their enforcement. We cannot ensure compliance with such requirements if we do not have control over who does what work in our buildings, or when and where they do it. Limiting our control in this area will unfairly increase our exposure to liability and adversely affect public safety.

In short, we are fully capable of meeting our obligations to our residents. As keen competitors in the marketplace, we will continue to make sure they have the services they need. It is unnecessary for the government to interject itself in this field, and any action by the government is likely to prove counterproductive.

2. Demarcation Point

The Notice also asks for comment regarding the need for a common demarcation point, and the location of such a demarcation point. We believe that the only criteria for the location of the demarcation point should be the nature of the property, and not the specific technology involved. There should be a uniform demarcation point for all commercial properties, and a different demarcation point for residential properties. In the case of commercial buildings, the demarcation point should be inside the premises, preferable at the telephone vault or frame room. For residential properties, the demarcation point should be outside the building if the building is an apartment building where there is no residential superintendent, and in any event outside each resident's premises.

3. Connection

The Notice asks whether the FCC should issue technical standards for connections. We believe that government action in this regard is unnecessary. The telecommunications industry has already established standards that are widely followed, and we believe that it is in the interest of the companies and their customers that they continue to be followed.

4. Regulation of Wiring

We have no comments on the merits of any particular scheme for regulating inside wiring, because we are not service providers but users of telecommunications. In general, however, we think it important to note that there are substantial differences between residential and commercial buildings, and while it may make sense to account for the convergence in technologies, it probably does not make sense to adopt uniform rules for all kinds of property.

We are also concerned that the government might impose a huge new expense on telecommunications service providers and building owners by requiring retrofitting of existing buildings. We believe such matters should be left to the ongoing discussions regarding amendments to the Model Building Code. Except where safety is involved, amendments to the building and electrical codes are seldom retroactive.

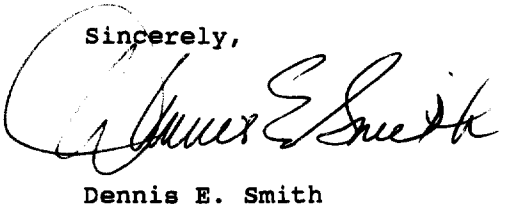
5. Customer Access to Wiring

We have no objection to permitting a customer to install or maintain its own wiring or buy the wiring from a service provider, provided that the

rights of the owner of the premises are taken into account. A tenant's rights in wiring should not extend beyond the limits of the demised premises, and the landlord must retain the right to obtain access to the wiring and control the type and placement of such wiring. We also believe that the owner of the premises should have a superseding right to acquire or install any wiring. In any case, a tenant's right to acquire or install wiring should be governed by state property law and the terms of the tenant's lease. We must retain the right to control activities on our own property, if need be.

In conclusion, we urge the FCC to consider carefully any action it may take. Thank you for your attention to our concerns.

Sincerely,



Dennis E. Smith
Vice President

DES:pjt