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EX PARTE OR LATE FILED

Ameritech

Gary L. Phillips
Director of Legal Affairs
Washington Office

October 21, 1996

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Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

RE: **Ex Parte Statement**
CC Docket No. 96-149

Dear Mr. Caton:

Blaine Gilles, John Gockley and I met on Friday, October 18, with Gregory Rosston in the Office of Plans and Policy to discuss Ameritech's position in the above-referenced matter.

The attached was used in the course of the discussion.

Sincerely,

Gary L. Phillips

Gary L. Phillips

Attachment

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List ABCDE

I. General Remarks

o The FCC's obligation is to apply the statute as written. The incumbent long-distance carriers are treating this proceeding as an invitation to rewrite the statute. FCC must reject those efforts.

o FCC must remember that separation requirements and other restrictions are not ends in themselves; they are means to an end.

o AT&T six times the size of Ameritech

II. Joint Marketing

A. Proposed Restrictions on BOC Joint Marketing after InterLATA Entry Are Anticompetitive and Inconsistent with the Act

o Customers want bundled service packages.

o The joint marketing restrictions proposed by AT&T & others are anticompetitive efforts to deny BOCs the ability to participate effectively in the market for bundled services.

o When Congress intended to restrict joint marketing, it did so expressly. See FCC Open Video Systems decision, where FCC rejected arguments that it should restrict joint marketing of video and telephone services on ground that, had Congress intended to do so, it would have so provided. (2nd R&O at ¶¶ 246-247, released 6/3/96).

B. Restrictions on inbound marketing are inconsistent with the Act, FCC precedent and the public interest.

o Equal access provisions do not apply to joint marketing.

o Section 274, which otherwise prohibits joint marketing, expressly permits "inbound telemarketing or referral services."

o Restricting inbound marketing would be inconsistent with FCC decision on open video systems. " (3rd R&O at ¶ 214, released 8/8/96)

C. AT&T's Argument that Post-Sales Activities do not Constitute Marketing is Wrong

o Marketing is not limited to activities that take place prior to the customer's decision to subscribe. Sales efforts are ongoing.

o All carriers in the marketplace are constantly marketing to existing customers so that they can sell more services to those customers.

o Moreover, it is not just ongoing sales that are critical in marketing. The essence of one-stop shopping is a single point of contact. Customers want one number to call when they have service problems.

o But even if certain post-sales efforts are not part of joint marketing and sales, they should be permitted as a shared service -- provided there is proper accounting and the service is made available to others.

III. FCC Should Clarify That BOC Affiliates May Provide Local Exchange Service Through Resale or Purchase of Unbundled Elements

o The Act is clear on these points.

* TCG's argument that 272(a) prohibits an affiliate from providing local service misquotes section 272(a).

o There is no public policy reason to prohibit BOC affiliates from providing local exchange service.

* There is broad consensus that they may do so. Even AT&T agrees that BOC affliates may resell BOC services. LDDS agrees that affiliate may resell BOC services, purchase network elements or construct or acquire its own network.

* FCC should not be concerned with how affiliate provides local, so long as affiliate takes any inputs it derives from AOC on same terms on which those inputs are available to others. Argument that allowing anything other than resale would enable BOC to place all network advances in affiliate is a red herring:

  Any network element purchased by affiliate must be made available to others. It is pro-competitive, not anticompetitive, for Ameritech and/or affiliate to design innovative new solutions for customers using those network elements. Others have the same opportunity. So long as affiliate purchases inputs (services or elements) from the BOC at generally available terms and conditions, there is no public policy reason why the affiliate should be prohibited from providing its own packages of services just like other providers.

o Various entities are citing statements in NPRM (in particular, paragraphs 70 and 79) as evidence that FCC believes that BOC affiliates may not provide local exchange service.

o Competition will not be served if states can deny BOCs the ability to participate as equal citizens in the one-stop shopping world. This is not a matter reserved to the states under the Act. The statute is clear, and the FCC cannot give states the lattitude to ignore the clear language of the Act.

IV. Sharing of Administrative Services

o The Act does not prohibit shared services.

o There is no public policy reason to prohibit shared administrative services, as evidenced by the fact that the Commission specifically permitted them in CI-II.

o Ameritech will provide ACI with the general corporate oversight inherent in a parent, subsidiary relationship. In addition, under current plans, ACI and the AOCs may share the following administrative functions (i.e., these functions may be shared or provided by Ameritech, a subsidiary of Ameritech, or an outside vendor to ACI and the AOCs):

* Legal services, public and government relations
* Labor relations services
* Corporate security services and advice
* Tax and insurance, including coverage under Ameritech umbrella policies
* Ameritech benefit programs, including pension plans, incentive plans, and employee stock option plans
* Bulk purchasing of supplies and equipment and related ordering, warehousing, inventory, delivery, salvage, and return functions
* Billing and data processing
* Limited accounting support (though both will maintain their own accounting staffs and separate books);
* Limited human resource services (such as EEO, generic training)

o All shared services will be comport with 272(b)(5) and Part 64 rules.

o 272(b)(3) relates to the relationship between ACI and the AOCs, not ACI and other affiliates of Ameritech. The argument that the BOCs and the 272 affiliate would simply outsource all their activities to the third affiliate and thereby achieve the precise joint integration prohibited by 272 is a red herring. This is where operational independence comes in. That would not be the case, though, if administrative services or billing services or other non-bottleneck services are shared -- subject, of course, to proper accounting.

NOTES FOR NONDOMINANCE MEETING

I. Definition of "Dominant Carrier"

o Carrier with mkt power -- *i.e.,* ability to raise and sustain prices above competitive levels.

II. The "Let's Get Real" Argument: putting the issue in perspective

AT&T
- o largest telecom company in the world
- o 55% of the long-distance market
- o Over 100 million presubscribed lines
- o 1995 revenues of $80 B ($50 B in toll revenues alone)
- o Handles over 60 billion calls annually

MCI
- o 24 million presubscribed lines
- o Earned 13 B in toll revenues last year; 4 billion in 1st Q 96
- o Backed by British Telecom

Sprint
- o 10 million presubscribed lines
- o Earned $7 B in 95; 2B in 1st Q 96.
- o Owns the nation's 2nd largest independent telco w/ 6 1/2 million lines

LDDS Worldcom
- o Earned almost $4 billion in toll revenues last year
- o Recently acquired the nation's largest CAP.

- • All of these companies will be providing local and long-distance services on an integrated basis.

III. BOC Affiliates Cannot Raise Price by Restricting Own Output

- o Zero Market Share
- o High Supply Substitutability
- o High Demand Substitutability
- o Cost Structure, Size, and Resources

IV. BOCs Cannot Exert Market Power Through Control of "Bottleneck Facilities."

- o Cross-Subsidization

o Discrimination

V. BOCs Cannot Exercise Market Power by Raising Rivals' Costs

o Price caps prevent price increases

* If we could raise costs, why not now?
* Why enter long-distance at all?

o Access costs must be imputed to affiliate

o With less than 15% of nation's access lines, Ameritech has little control over overall cost structure of national ICs.

o Regulating *affiliate* as dominant would in no way address the ostensible problem.

VI. Price Squeeze

o Pretty much the only theory relied upon

o Its proponents do not even allege that BOC affiliate could acquire market power through price squeeze. Instead, they allege that BOC could gain some market share.

* This is of no consequence. In fact, it would benefit consumers.

o Claims that BOCs have *unique* ability to painlessly price below cost is foolish.

o Argument that RBOCs need not recover access charges from end users is fallacious. Access costs are inflated because they recover subsidies that have been built into the rates to promote universal service.

VII. Costs of Dominant Carrier Status

o One step slower than competitors
o Regulatory gamesmanship -- uncertainty
o Advance notice of offerings -- diminished incentives, less competition