CCB - MCI / WorldCom 971166

EX PARTE OR LATE FILED

Inner City Press
Community on the Move
&
Inner City Public Interest Law Project

ORIGINAL

February 9, 1998

RECEIVED

JUL 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FEB 10 11 24 AM '98

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

Re: ICP's First Supplement to its January 2, 1998, Petition to Deny the Applications of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc. (CC Docket No. 97-211), including ICP's response to the Applicants' Joint Submission of January 26, 1998

Dear Chairman Kennard:

On behalf of Inner City Press/Community on the Move and its members and affiliates, including the Inner City Public Interest Law project (collectively, "ICP"), this letter is ICP's first supplement to its timely January 2, 1998, petition to deny the above-captioned Applications.

We have now received and reviewed WorldCom's and MCI's Joint Reply of January 26, 1998, but we remain firm in our belief that this mega-merger proposal must be denied, in the public interest. The combination of WorldCom and MCI would be anticompetitive, would neither preserve or enhance universal service, and would provide few to no benefit to residential retail customers, particular those in low- to moderate-income communities of color.

On January 22, 1998, after the deadline for filing petitions to deny these applications, MCI announced a major cut-back in service to local residential and small business customers. *See, e.g.*, J. Aversa, MCI to Abandon Practice of Reselling Other's Local Service, Associated Press, Jan. 22, 1998.

That this raises troubling issues under the public interest standard (and standards and intent of the 1996 Act) is confirmed by your public statements of January 30, 1998. *See, e.g.*, P. Horn, Two Years After the Telecom Act, Some

1919 Washington Avenue, Bronx, New York 10457 TEL: (718) 716-3540; FAX: (718) 716-3161

No. of Copies rec'd 0
List A B C D E

Businesses Benefit, Consumers Still Waiting, Ft. Lauderdale Sun-Sentinel, Feb. 1, 1998, at 1F: "The slow place of competition in local service worries [FCC] Chairman William Kennard. 'I'm concerned if MCI or any other company abandons a business plan for local competition because it's so important to the country,' Kennard said in a press conference on Friday. 'I have asked AT&T and MCI to explain to us why, under our present framework, resale is not a viable approach for them.' The lack of competition also worries consumer advocates."

ICP is a non-profit community, consumers' and civil rights organization headquartered in the South Bronx of New York City which is extremely concerned not only about MCI's and AT&T's cut-back in service to, and competition for, residential customers, but particularly about this proposed combination of WorldCom and MCI.

ICP was flabbergasted by, and hereby formally takes issue with, WorldCom and MCI's statement, in their January 26, 1998, Joint Reply (the "Rep.") at 27-28, that "[s]ome advocacy groups have, of course, filed petitions opposing the merger. The petitions, however, generally reflect **particularized** concerns about the effects of the merger, including its effect on the minority community. These issues are important, but... the merger creates no cause for concern." Emphasis added.

WorldCom and MCI have attempted to obscure both the level of consumer opposition to their proposed combination[1] (by, *inter alia*, unilaterally declaring their competitors the "primary" opponents of the merger), and the public interest issues that the Commission must consider (which extend beyond the strictly competitive analysis of the Department of Justice, for example).

ICP also takes issue with WorldCom's and MCI's statement, Rep. at 96, that "Internet considerations raise issues beyond the scope of this proceeding." This is a basis WorldCom and MCI proffer for the FCC to refuse to

---

[1] Beyond the petitions to deny and comments that have been filed with the FCC, the FCC should be aware, *inter alia*, of the protest filed with the California Public Utilities Commission by TURN (The Utilities Reform Netword) (see TURN's press release, on Business Wire of January 9, 1998), and ICP's ICP's intervention in opposition to the proposal before the New York State Public Service Commission (*see* PSC Order of January 26, 1998, granting ICP's motion for intervention in Case 97-C-1804).

grant a hearing on this unprecedented application, the largest proposed merger not only in telecommunications, but in U.S. history.

As set forth in ICP's January 2, 1998, Petition to Deny, the FCC should and must consider the ways in which this proposed combination would substantially lessen competition in internet as well as long distance markets.

The FCC should be aware that ICP on January 30, 1998, asked WorldCom and MCI to provide certain information in this regard. ICP's request was explicitly made in connection with the New York State Public Service Commission proceeding (Case 97-C-1804), but is obviously relevant to this FCC proceeding.[2] Both WorldCom and MCI refused to provide this information. Here are some of ICP's questions (which WorldCom and MCI have refused to answer) -- ICP asks the Commission to direct WorldCom and MCI to provide this information, to ICP and/or into the record in this proceeding:

1. Please describe WorldCom's, MCI's and/or the proposed MCI WorldCom's plans to preserve and enhance universal service in low or moderate income ("LMI") or predominantly Latino or African American communities in New York State, as this relates to telephone and particularly internet / information technology infrastructure and retail service/access.

2. Please describe WorldCom's, MCI's and/or the proposed MCI WorldCom's plans and timetables to enter local residential markets in New York State, and internet services therein, particularly in low or moderate income ("LMI") or predominantly Latino or African American communities in New York State.

3. Please describe UUNet's policy as to pricing and the disclosure thereof, for backbone peering arrangements / agreements.

4. Please describe current and planned operational and technical standard requirements for UUNet and/or any proposed successor, including but not limited to in

---

[2] Beyond the obvious relevance demonstrated by the questions themselves, the FCC's Bell Atlantic - NYNEX Order (full citation in ICP's Jan. 2, 1998, Petition to Deny) explicitly encouraged the consideration of antitrust issues in state regulatory reviews of proposed telecommunications mergers.

the areas of routing protocol architecture, security and packet-counting architecture.

5. Please describe WorldCom, MCI's and/or the proposed MCI WorldCom's plans to build switches in LMI or minority communities in New York State.

[6]. Please describe in detail the basis of (and any plans or timelines for) WorldCom's and MCI's statement in their January 15 Opposition to ICP's Motion to Intervene (at 6) that "the combination of WorldCom and MCI... will increase... the ability to offer competitive local and toll service to all residential customers...As the strengthened WorldCom/MCI is able to expand the availability of competitive local service to residential customers, the presence of competition will result in lower cost, more efficient service, and more customer choice. Competition will develop for the universal service payments now available only to monopoly LECs and, with that competition, funds available for universal service will be more effective in assuring the availability of universal service for all residential customers."

[7]. Please provide documents that discuss, analyze, describe or relate to MCI's decision (announced January 22, 1998) to abandon its plans to resell local residential phone service and to focus on providing local business service through its own networks.

WorldCom's and MCI's outright refusal to provide information responsive to these public interest / antitrust questions, either in response to ICP's January 30, 1998, request, or, essentially, in their January 26, 1998, purported Reply to the FCC, makes the need for an FCC hearing in this proceeding all the more clear. On the current record, these applications must be denied.

* * *

Finally, to remind the Commission of the real-world problems at stake in this proceeding, and in light of WorldCom's and MCI's attempts to portray opposition to their proposed combination (and current record of service) as coming "primarily" from a spurned bidder and other monopolizing competitors, ICP wishes to present a report from its headquarters community, the South Bronx. While this runs the risk of playing into WorldCom's and MCI's attempts to characterize consumer opposition to this proposed combination as revolving around "particularized

concerns about the effects of the merger, including its affect on the minority community" (Rep. at 27-28), ICP believes it imperative that the Commission's review of this unprecedented merger proposal not to limited to a technical battle of experts, exemplified by the two thirty-page "declarations" annexed to the Applicants' Reply.

Here in the South Bronx, many young people have access to the internet, if at all, at the few public access terminals in the public libraries. At numerous libraries here, every weekday afternoon between 3 and 6 or 7 p.m. (whenever the library closes), as many as forty young people line up to use the two or at most three terminals that are in the library. One can only sign up for half an hour at a time; even if the computers didn't often "crash" (as they do), often less than half of the young people waiting get to access the internet at all.

That the Bronx, particularly the South Bronx, and communities like it,[3] are being increasingly left behind from the so-called information super highway is not only a matter of anecdote. For example, the Urban Research Center at New York University in January 1997 found 15,139 internet domains in Manhattan, and only 181 internet domains in the Bronx.[4]

Now, the Applicants may easily try to characterize this as a problem of municipal government, or point to the relatively paltry (and "ramped-down") payments they will make to the E-Fund for schools, libraries and health clinics in low income and rural areas. ICP believes it clear that

---

[3] The same is true in the communities of other ICP members, such as Bridgeport and New Haven, Connecticut, Newark, New Jersey, Binghamton and Buffalo, New York, Roanoke, Virginia, rural northern New Mexico, etc.. More on this forthcoming. For further example, the Dayton (OH) Daily News of June 22, 1997, at 1E, reporting on the lack of access to the internet in Dayton's blue collar neighborhoods just north of downtown, quotes a church activist to the effect that, "'Just as we've watched out for insurance and bank redlining in poor and black neighborhoods, we're watching out now for "information redlining"...We want to create local on-ramps to the information highway so that all people have access, and don't find themselves in electronic shackles.'"

[4] Even in Manhattan, the geographic location of domain registrations is almost exclusively south of 96th Street -- that is, excluding Harlem and Washington Heights. The Bronx' density of internet domain registrations (compared to population) is less than one-tenth the NATIONAL average.

the Commission can and must address this issue in this mega-merger proceeding, particularly in light of the questions raised about how acquisition by business-focused WorldCom will effect MCI's already wavering commitment to serving residential consumers, particularly in low income communities of color. The 1996 Telecom Act directs the FCC to take actions to accelerate the provision of advanced technologies to ALL Americans. If this isn't happening (and it is not meaningfully happening, in part due to mergers such as this one, in which a business-focused internet backbone monopolizer seeks to acquire and change a large providers that has been more focused on residential consumers), the Act calls on the FCC to take immediate action.

More generally, it is imperative that the Commission not view universal service (a standard on this merger) merely as an economic benefit for those who can't afford it, but as a prerequisite for equal participation in our society.[5] You seem to understand this - we note your recent comments at "Plugged-In" in East Palo Alto ("without access to information, many young minds will not be able to meaningfully participate in our future society"),[6] and at the Maxine Waters Employment Preparation Center in Los Angeles (challenging the telecom industry to do more in inner city and underserved communities "so that everyone can participate in the new information economy").[7]

This issue can and must be addressed and acted on in this proceeding. WorldCom's and MCI's Joint Reply, at 27-28, states that "[s]ome advocacy groups have, of course, filed petitions opposing the merger. These petitions, however, generally reflect particularized concerns about the effects of the merger, including its effect on the minority community. These issues are important, but, as demonstrated below, see infra Section VI.A, the merger creates no cause for concern." But the Reply's Section VI.A is less that two pages long (in a Reply of some 98 pages), after minimizing ICP's and R/PC's basis for opposition, merely recites one MCI "lifeline" program for those eligible for public assistance (a narrowing standard in our communities), and some generalized "5 Cent Sundays" program "available to every MCI customer." This is not a sufficient answer to the

---

[5] For more on this, *see* Opinions & Essays in The Christian Science Monitor of December 19, 1997: "Applying 'Universal Service to the Net -- a U.S. Imperative," by Lloyd Morrisett.

[6] *See* <http://www.fcc.gov/Bureaus/Miscellaneous/News_Releases/1998/nrmc8001.html>.

[7] *See* <http://www.fcc.gov/Bureaus/Miscellaneous/News_Releases/1998/nrmc8002.html>.

issues raised, and to the problem generally, from a self-proclaimed leader in the telecommunications industry.

On the current record, this proposed merger would not only be anticompetitive, but would harm consumers, particularly the residents of low and moderate income and minority communities. Under the public interest and universal service standards, the merger should be denied.

Thank you for your attention. If you or FCC staff have any questions about this submission, or about ICP's January 2, 1998, Petition to Deny, please telephone the undersigned, at (718) 716-3540.

Very Truly Yours,

Matthew Lee
Executive Director

cc: Magalie Roman Salas, Secretary
FCC (pursuant to 47 C.F.R. §1.1206(b)(1))