

August 4, 1999

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Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
TW-A325  
Washington, D.C. 20554

Re: Promotion of Competitive Networks in Local Telecommunications Markets,  
WT Docket No. 99-217/Implementation of the Local Competition Provisions  
in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

Please have the following comments entered into the record of the above captioned matter. These comments are in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. Please find enclosed six (6) copies of this letter, in addition to this original.

Bradford Management Company of Dallas, Inc. is concerned that any action by the FCC regarding access to private property by large numbers of communications companies could adversely affect the conduct of our business and may needlessly raise additional legal issues. The Commission's public notice also raises a number of other issues that concern us.

### **Background**

Bradford is in the office and industrial real estate business. We manage a portfolio of 15 million square feet and house 750 tenants in approximately 100 buildings in the Dallas / Fort Worth metroplex.

### **Issues Raised by the FCC's Notice**

First and foremost, Bradford does not believe the FCC needs to mandate access. Because tenant satisfaction is the business we are in, Bradford is doing everything we can to satisfy our tenants' demands for access to telecommunications. In addition, the FCC's request for comments raises the following issues of particular concern to us:

**BRADFORD**

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**1. FCC action is not necessary**

- We are aware of the importance of telecommunications services to tenants, and would not jeopardize rent revenue stream by actions that would displease tenants.
- Bradford competes against many other buildings in our market. This provides adequate incentives to keep our properties up-to-date.

**2. "Nondiscriminatory" Access**

- There is no such thing as nondiscriminatory access. Dozens of providers are out there, but limited space in buildings means that only a handful of providers can install facilities in buildings. "Nondiscriminatory" access discriminates in favor of the first few entrants.
- Building owners must have control over space occupied by providers, especially when there are multiple providers involved.
- Because of our legal responsibility to tenants' safety, building owners must have control over who enters a building. The owner faces liability for damage to building, leased premises, and facilities of other providers, and for personal injury to tenants and visitors.
- Owners are also liable for safety code violations, therefore qualifications and reliability of providers are a real issue.
- What does "nondiscriminatory" mean? Deal terms vary because each deal is different. For example, a new company without a track record poses greater risks than an established one, so indemnity insurance, security deposit remedies, and other terms may differ. Value of space and other terms also depend on many factors.
- Concerns of owners of office, residential, and shopping center properties all differ, therefore making a "one size fits all" regulatory regime unacceptable.
- Concerns of owners within any given segment of real estate will also differ based upon the size of their property - also making a "one size fits all rule" unworkable.
- In its efforts to address discrimination, the Commission only talked about access and not about the ability of carriers to discriminate by choosing which buildings and tenants they serve.

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### 3. Scope of Easements

- FCC cannot expand scope of the access rights held by every incumbent to allow every competitor to use the same easement or right-of-way. Grants in some buildings may be broad enough to allow other providers in, but others are narrow and limited to facilities owned by the grantee.
- If owners had known governments would allow other companies to piggyback, they would have negotiated different terms. Expanding rights now would be a taking.

### 4. Demarcation Point

- Current demarcation point rules work fine because they offer flexibility – there is no need to change them.
- Each building is a different case, depending on owner's business plan, nature of property and nature of tenants in the building. Some building owners are prepared to be responsible for managing wiring and others are not.

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

Sincerely,

BRADFORD MANAGEMENT COMPANY OF DALLAS, INC.



Al Horstmann, CPM  
President

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Enclosures