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IREM Institute of Real Estate Management

Greater Los Angeles Chapter No. 6

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August 23, 1999

Ms. Magalie Roman Salas
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, DC 20554

Re: Promotion of Competitive Networks in Local Telecommunications Market.

Dear Ms. Salas:

I am the owner of a small real estate business, which manages and leases commercial properties. In addition to my company managing commercial properties I am also the owner of real estate and am presently on the executive council and VP of legislation for the Institute of Real Estate Management Los Angeles Chapter.

I am very concerned with issues, which the FCC is presently addressing. First and foremost, I do not believe the FCC needs to act in this field because we are 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 me as a manager and owner of real estate and to the members of the Institute of Real Estate Management:

1. FCC Action is Not Necessary.

- As managers and owners of real estate, we understand the importance of telecommunication services to tenants, and would not jeopardize rent revenues by actions that would be to our tenants a disadvantage. Bottom line, we are economically motivated to provide tenants with the best possible telecommunication services given the competitive nature of the real estate market place. Government regulation is not necessary to facilitate this. In this respect we have addressed the needs of our tenants by installing an array of communication services including satellite dishes, fiber optics and additional cabling where prudent and necessary. To further regulate this market activity may cause waste and inefficiencies, which I'm sure the FCC is not intending to do.



2. “Nondiscriminatory” Access.

- There is no such thing as nondiscriminatory access: There are dozens of providers 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.
- Building owners must also have control over who enters buildings. An owner faces liability for damage to its building, leased premises, and facilities of other providers, and for personal injuries to tenants and visitors. The owner is also ultimately liable for safety code violations. Qualifications and reliability of providers are a real issue. Forcing providers onto building owners would create an unacceptably high risk of liability and exposure.
- To say that a building owner would be required to not discriminate against a provider would preclude an owner from fairly negotiating such issues as indemnity, insurance, security deposit, remedies and other terms of an agreement for services on his property.
- Concerns of owners of office, residential, and shopping center properties all differ therefore require a different set of rules.

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 piggy-back, 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.

5. Exclusive Contracts.

- Property owners should be entitled to negotiate exclusive contracts not only for their own benefit but also, for the benefit of their tenants. In fact, by way of example, at one of our 750 unit apartment complexes we were able to negotiate a contract with a cable provider who was, because of the large number of users, able to offer his services to the complex at a much reduced cost. Certainly this could be one element in the decision making process of a tenant in renting an apartment. To force upon property owners a "Nondiscrimination" clause would preclude owners from acquiring this benefit for its tenants. The FCC by so regulating would thereby be hurting individuals who they claim to be benefiting in this instance.

6. Expansion of Satellite Dish Rules.

- I am opposed to the existing rules because we do not believe Congress meant to interfere with our ability to manage our property.
- The FCC should not expand the rules to include data and other services, because the law only applies to antennas used to receive video programming.

In conclusion, I urge the FCC to consider carefully the rights of property owners and the benefit to tenants of those property owners in any action it may take. Thank you for your attention to my concerns.

Regards,



Edward J. McKeegan, Jr., CPM®
President, MEI Real Estate Services
VP of Legislation, Institute of Real Estate Management LA Chapter