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Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

99-217
96-98

The Honorable Chip Pickering
U. S. House of Representatives
427 Cannon House Office Building
Washington, DC 20515

Dear Congressman Pickering:

Thank you for your letter in support of the Commission's initiative to facilitate the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released a Notice of Proposed Rulemaking in WT Docket No. 99-217 and CC Docket No. 96-98 which, among other things, sought comment on the Commission's authority to take action to ensure that competitive providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you state your belief that the Communications Act provides the Commission with adequate authority to ensure such access. In particular, you reference the Commission's authority under sections 207 and 224 of the Act, as well as the Commission's general authority under the Act over interstate radio and wire communications. Your letter has been placed in the record for this proceeding and will be considered by the Commission.

Thank you again for your interest in the development of telecommunications competition in multiple tenant environments.

Sincerely,

Steven E. Weingarten

Steven E. Weingarten
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

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427 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5031

823 22ND AVENUE
MERIDIAN, MS 39301
(601) 693-6681

110-D AIRPORT ROAD
PEARL, MS 39208
(601) 932-2410

2080 AIRPORT ROAD, SUITE D
COLUMBUS, MS 39701
(601) 327-2766

CHIP PICKERING
THIRD DISTRICT, MISSISSIPPI

Congress of the United States
House of Representatives
Washington, DC 20515–2403

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August 5, 1999

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docket
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The Honorable William E. Kennard
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8-B201
Washington, D.C. 20554

Dear Chairman Kennard:

I understand that many consumers that work or live in multi-tenant buildings are experiencing difficulty in obtaining access to their telecommunications carrier of choice. This threatens the realization of widespread telecommunications competition.

I would like to congratulate the Federal Communications Commission (FCC) for addressing this obstacle to telecommunications competition in its recently released Notice of Proposed Rulemaking. Nevertheless, it has come to my attention that several Commissioners have expressed some concern as to whether the FCC possesses the requisite authority to order multi-tenant building owners to allow telecommunications carrier access to their to their buildings so that the consumers therein can receive the benefits of competition that Congress intended. I believe that Congress has already provided the FCC with adequate authority to resolve the building access issue in an equitable manner.

The FCC retains substantial authority under the Communications Act over interstate radio and wire communications -- authority that includes facilities and services incidental to transmission. To the extent that occupants of multi-tenant buildings are restricted in their access to radio or wire communications from their carrier of choice due to a landlord's control over transmission facilities within a building, the FCC already has jurisdiction to remedy the problem.

The FCC also has authority to provide telecommunications carrier access to rights-of-way that are used by utilities. As the FCC properly recognized in its NPRM, to the extent that transmission facilities (such as wires) or even rights-of-way (such as open conduits or riser space or the right to access a rooftop) within a building are controlled by a utility (such as an incumbent local exchange carrier), the FCC can require the utility to provide telecommunications carriers nondiscriminatory access to those intra-building facilities pursuant to Section 224. Indeed, it is my understanding that some ILECs and electric utilities presently locate their own antennas on rooftops in order to transmit telecommunications and video signals. If ILECs already engage in such activity, I see no reason why the FCC cannot allow CLECs to do the same pursuant to Section 224.

Finally, the FCC's existing authority under Section 207 of the Telecommunications Act provides more than ample ancillary, and even direct, bases of FCC authority to resolve the building access issue.

Given the specific grants of authority afforded the FCC by the Communications Act, I believe the agency already possesses the tools to resolve the building access issue so that commercial and residential occupants of multi-tenants buildings nationwide can enjoy the benefits of telecommunications competition. I would encourage the FCC to use that authority to reach a resolution that will ensure that the benefits of competition extend to commercial and residential tenants in multi-tenant buildings in balance with the property rights of building owners to find a fair, equitable solution.

With best wishes, I am

Sincerely yours,

Chip Pickering