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Smart Buildings Policy Project

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Information Technology Association of America

Nextlink Communications Inc.

International Communications Association

MCI WorldCom

Telecommunications Industries Association

Teligent

Winstar Communications Co.

Wireless Communications Association

The Honorable William Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: *Promotion of Competitive Networks in Local Telecommunications Markets*, WT Docket No. 99-217 and CC Docket No. 96-98

Dear Chairman Kennard:

A recent Wall Street Journal article, attached for your review, confirms what telecommunications carriers have been experiencing for some time: some building owners are prohibiting telecommunications carrier access to tenants in their buildings. Last week's Wall Street Journal article reports that "[a]ccording to people familiar with BroadBand Office, six of the seven original REITs involved with BroadBand don't intend to allow into their buildings any direct competitors to BroadBand." The article goes on to report that BroadBand Office enjoys preferred agreements with CarrAmerica, Spieker, Crescent Real Estate Equities Co., Duke-Weeks Realty Corp., Highwoods Properties, Inc. and Mack-Cali Realty Corp.

By way of background, in October, the Wall Street Journal reported that the nation's biggest office landlords were forming BroadBand Office — a company to provide telecommunications services to their multi-tenant buildings. The October article, also attached for your review, reported that these building owners said they wouldn't "force tenants to use BroadBand Office and will give other telecommunications companies access to their buildings." Telecommunications carriers viewed this claim with skepticism given that building owners already were prohibiting CLEC access to buildings and because the building owners had noted that one of their competitive advantages was the quick period of time in which they could turn on service to requesting tenants as compared with the time it takes their competitors. Their financial

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interest in offering telecommunications services only increased the incentive for building owners to discriminate against competing telecommunications carriers with respect to access. Last week's Wall Street Journal article indicates that the telecommunications carriers' skepticism was well-founded.

The Commission is considering proposals to ensure that commercial and residential tenants in multi-tenant buildings would not be held hostage to the building owner's choice of carriers but, rather, could choose their own telecommunications carrier. Given the detrimental effect on broadband availability and telecommunications competition caused by discriminatory building owner practices, these measures deserve your support. The planned behavior reported in last week's Wall Street Journal heightens the need for action by the Commission to ensure that tenants in multi-tenant buildings will not be held hostage to their building owner's telecommunications services and, instead, can enjoy the benefits of telecommunications competition.

Very truly yours,

Thomas W. Cohen

Enclosures

cc: Commissioner Furchtgott-Roth
Commissioner Ness
Commissioner Powell
Commissioner Tristani
Thomas Sugrue
Jeffrey S. Steinberg
Joel D. Taubenblatt

REIT INTEREST

By Barbara Martinez

It Adds Up to More Than Just Semantics

BACK IN OCTOBER, seven real-estate investment trusts announced the formation of BroadBand Office Inc. with the backing of venture-capital giant Kleiner Perkins Caufield & Byers. BroadBand Office is touted as a one-stop provider of telephone, high-speed Internet and other high-tech services.

To allay fears that the office REITs were going to limit the number of telecom competitors in their buildings, they all professed their lack of so-called exclusivity pacts with BroadBand. In other words, as Craig Vought, co-chief executive of Spieker Properties Inc., a member of the BroadBand group, put it, "it doesn't preclude any other telecom company in the country from servicing these buildings."

But what really wasn't spelled out is just how much choice the tenants would really get. The little-publicized portion of the announcement was that six of the seven REITs struck "preferred" relationships with BroadBand, meaning they will not only help BroadBand market its services to tenants in their buildings, they could actually discourage certain other companies from wiring up their buildings.

"We're not trying to take sides here," says Philip L. Hawkins, chief operating officer of CarrAmerica Realty Corp., another BroadBand member. "We have national and regional agreements with more than 20 communications companies."

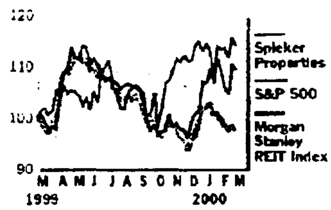
But ask Mr. Hawkins what would happen if Allied Riser Communications Corp., one of the most aggressive and successful telecom companies targeting office buildings to date, asked to wire up CarrAmerica's Washington portfolio, and Mr. Hawkins responds: "We'd say we're not interested at this point."

According to people familiar with BroadBand Office, six of the seven original REITs involved with BroadBand don't intend to allow into their buildings any direct competitors to BroadBand, such as Allied Riser and Onsite Access Inc. Those two companies appear to be the most formidable competitors to BroadBand because they want to go beyond just offering the telecommunications lines inside buildings. Like BroadBand, they want to offer services that can essentially take over a tenant's entire communications needs, from phone service to e-mail.

In addition to CarrAmerica and Spieker, the other REITs that have given BroadBand a preferred agreement are Crescent Real Estate Equities Co., Duke-Weeks Realty Corp., Highwoods Properties Inc. and Mack-Cali Realty Corp.

Property Lines

Reindexed to 100 on March 1, 1999



The REITs that chose the preferred method could risk tenant backlash if BroadBand fails to meet expectations of excellent service. But Gene Zink, executive vice president at Duke-Weeks, says the REITs have "structured a number of performance-related outs if the service is not" up to par.

The office REITs involved weren't as direct about the practice as is CarrAmerica's Mr. Hawkins. Last week, Spieker's Mr. Vought said Allied Riser hasn't tried to wire up Spieker's buildings. "Neither side has pursued a relationship," he said.

But David Crawford, CEO of Allied Riser, says that simply wasn't true. "We've met with representatives of Spieker on numerous occasions in an effort to obtain access to their buildings to no avail," he says.

Reached a second time, Mr. Vought said he had misspoken. "It was an incomplete statement on my part . . . David did come to see us in the spring of last year," he said, but a deal was never reached.

Equity Office Properties Trust is the only member of the REIT group that didn't confer upon BroadBand the preferred status. In fact, Equity Office has either an equity or revenue-sharing interest in Allied Riser, Onsite Access and BroadBand.

The preferential treatment could complicate building owners' defense against complaints by phone companies that they're being denied access. The Federal Communications Commission is considering whether to force landlords to allow all telecom providers equal access.

Big Landlords Are Joining Telecom Fray

By SCOTT THURM AND BARBARA MARTINEZ
Staff Reporters of THE WALL STREET JOURNAL

Ma Bell, meet Sam Zell.

Eight of the nation's biggest office landlords, including the biggest, Mr. Zell's Equity Office Properties Trust of Chicago, are making an unusual leap into the crowded telecommunications arena. Joined by venture-capital heavyweight Kleiner Perkins Caufield & Byers, they are expected to announce today that they have formed a new company, **Broadband Office**, to offer their tenants both local and long-distance phone service as well as high-speed data lines.

The move signals that real-estate owners are tired of just sitting back and collecting the rent. They have amassed giant portfolios of buildings full of captive customers and are now ready to tap into some of the billions of dollars these tenants spend on various products and services.

For instance, Equity Office, which owns more than 285 properties in 23 states, has more than 320,000 people walking in and out of its buildings daily. Broadband Office's owners control 2,000 buildings, representing about 10% of the nation's offices.

The landlords are joining a big crowd in the lucrative telecommunications market, including the Baby Bells, long-distance providers, and upstart companies focused on both telephone and Internet services. Businesses spend about $125 billion annually on telephone service, according to market researcher International Data Corp.

Amid the bewildering array of choices, backers of Broadband Office say they will appeal to tenants on simplicity, convenience and cost. They'll offer a single contact for local phone service, long-distance, and data connections. Broadband Office plans to spend as much as $100 million during the next 12 months to install fiber-optic and other high-speed lines through its owners' buildings. The plan is to undercut prices the Bells typically charge, which can approach $1,000 a month for a single high-speed data line. Broadband says new users will have to wait a matter of days, not weeks, to get its service.

"This is a way of bundling services under one provider that only focuses on business customers," said Craig Vought, co-chief executive of Spieker Properties Inc., of Menlo Park, Calif., one of the new company's owner-members.

Broadband Office will have one clear advantage over outside telecommunications suppliers: When the property owners who also own stakes in Broadband Office sign up new tenants, they will refer them to the new service. The backers

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Office Owners Are Joining Telecom Fray

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say they won't force tenants to use Broadband Office and will give other telecommunications companies access to their buildings.

The assurances may help address complaints from upstart phone companies, who say some landlords have sweetheart deals with established telephone companies and drag their feet or deny access altogether to new telephone-service providers. The Federal Communications Commission is considering whether to force landlords to allow all telecom providers access to their buildings.

"We are still leaving with our tenants total flexibility in how they obtain their service," said Staman Ogilvie, executive vice president of Hines, a Houston owner of 80 buildings and another partner in Broadband Office.

Both Hines and Equity Office have stakes in a rival venture, Allied Riser Communications Corp., of Dallas, which filed for an initial public stock offering in August. Indeed, Mr. Ogilvie said Hines is aligned with both Broadband Office and Allied Riser to promote competition. More services at lower prices, the landlords hope, will attract more tenants willing to pay big rents.

Backers say Broadband Office expects to raise $50 million to $100 million in equity to install equipment and wire buildings during the next year. Although Broadband Office officials say they hope to sign up other more equity investors, for now Kleiner Perkins is the only one. The property owners received undisclosed stakes in Broadband Office in exchange for the access and tenant references.

Eventually, the company's backers would like to take the company public. Dan Chu, an associate partner at Kleiner Perkins, will be Broadband Office's director of business development. Kleiner Perkins's other telecommunications investments include America Online Inc., AtHome Network, a unit of of Excite At Home Corp., and Juniper Networks Inc.

Mr. Chu says Broadband Office expects to begin offering service on Nov. 1. The company has recruited executives from MCI WorldCom Inc., BellSouth Corp., and Level 3 Communications Inc. It still is seeking a CEO.

Meanwhile, Allied Riser has raised $117 million from Goldman Sachs & Co. and other investors and hopes to raise $232 million more via its IPO. Another player, OnSite Access, New York, has raised $60 million from venture-capital firms and AT&T Corp.'s AT&T Ventures. Allied Riser and OnSite Access focus mainly on high-speed Internet access.