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June 13, 2000

Mr. Jeffrey S. Steinberg, Deputy Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W., Room 4-C236  
Washington, DC 20554

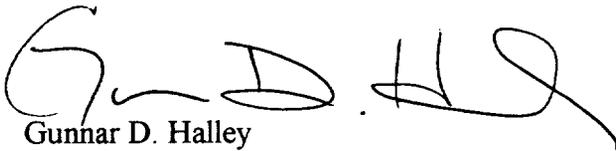
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JUN 13 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: WT Docket No. 99-217 and CC Docket No. 96-98

Dear Mr. Steinberg:

Please find attached a copy of an article that appeared on the front page of yesterday's Washington Post. I thought it would be of interest to you and others at the Commission who are working on the *Competitive Networks* item.

Very truly yours,

  
Gunnar D. Halley  
Counsel for TELIGENT, INC.

Enclosure

CC: Wilbert Nixon (WTB)  
Joel Taubenblatt (WTB)  
Eloise Gore (CSB)

Leon Jackler (WTB)  
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MONDAY, JUNE 12, 2000

# Rooftops Loom As a Telecom Battleground

By PETER S. GOODMAN  
*Washington Post Staff Writer*

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Beneath the pavement, along utility poles and through the airwaves, the pipes of the Internet and new telephone networks surge with growing streams of data. Increasingly, however, the flow is running headlong into obstacles like Lawrence D. Horowitz.

Horowitz's company, Velsor Properties LLC, owns 1 million square feet of highly desirable commercial property in the booming high-tech corridor of Northern Virginia. But for a group of upstart telecommunications companies battling for preeminence, the most critical real estate he controls is not office space: Their sights are set on the rooftops.

On this muggy afternoon, Guillermo Garcia, a 26-year-old wearing a ponytail and a pin-striped suit, has arrived at Horowitz's office in Tysons Corner to offer a pitch. Garcia hopes to gain permission for his company, Teligent Inc., to erect antennas atop Velsor's buildings. Then the company can beam telephone and high-speed Internet service to the tenants, elegantly bypassing the network controlled by Bell Atlantic Corp.

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See ROOFTOPS, A4, Col. 4

# Net Wiring Firms Look to Rooftops

ROOFTOPS, From A1

"We're starting to get offers from the big boys," Horowitz said, once everyone is seated around the table and the small talk is done. "What can you do for us?"

There are about 750,000 office buildings in the nation. Companies such as Teligent are deploying foot soldiers like Garcia to pry their way in. If they fail, they could remain shut out of broad swaths of the multibillion-dollar frontier of the Internet and local phone competition. As they pursue their modern-day guerrilla war for access, the companies are encountering stiff resistance. Landlords demand a rich share of the spoils. Some are launching their own telecommunications ventures from the inside.

The Federal Communications Commission and Congress are considering rules that would force landlords to provide access—a move branded by realty interests as a blatant attack on property rights.

Horowitz, gatekeeper over his domain, listens to Garcia's pitch. Then he leans back in his chair, folds his hands over his belly and unleashes questions. What if Teligent's crews cause leaks on his roof? Suppose a tenant is harmed. Suppose they sue.

Horowitz leans forward with a conspiratorial grin. "The wonderful phrase I hear is 'revenue share.'"

Teligent doesn't play that way, Garcia said.

"What do you do for us then?" Horowitz said. "You're a lovely guy. You make a lovely pitch. But why you?"

The Telecommunications Act of 1996 was supposed to remove barriers to local telephone competition. The FCC has since adopted a multitude of rules forcing the former Bell Telephone monopolies to share their systems with rivals, in a bid to open up the "last mile" of the communications web, the final leg that links homes and offices to the global network.

The last few yards now have emerged as a central issue. Senior FCC officials see rooftops as the new bottleneck to competition, along with internal wiring and the phone closets that hold the circuitry. The commission's proposed rules would force landlords to provide access at negotiated rates.

Texas and Connecticut already have adopted such rules and California is considering a measure. In Congress, Rep. Michael G. Oxley (R-Ohio) last November introduced a bill that would force building owners to provide access in exchange for some compensation.

As real estate interests see it, the rules strike at their basic right to wring dollars from properties. Utility companies have sprouted telecom ventures using their rights of way, they argue. Auto manufacturers are moving to build wireless Internet links into cars. Why shouldn't property owners be allowed to reap communications profits from their own niche?

"Mandatory access is unnecessary, unmanageable and unconstitutional," said Gerry Lederer, vice president of government and industry affairs for the Building Owners and Managers Association, a trade group representing some 18,000 owners and managers of office buildings in North America. "The competitive marketplace is working just fine."

The chief proponents for the new rules are those most in need of rooftop access—Teligent of Vienna and Winstar Communications Inc. of New York, which have pioneered the use of wireless links to beam telephone and Internet service into office buildings. But the rules are generally supported by most local carriers who compete with the Bell companies, noting that the former local monopolies enjoy building access for free.

In filings to the FCC, the Association of Local Telecommunications Services, which lobbies on behalf of such carriers, claims that landlords often seek exorbitant lease fees or simply deny access.

Winstar chief executive William J. Rouhana Jr. said his company usually manages to negotiate its way into a building, but long delays are the rule: Landlords typically require engineering studies before they allow antennas to be installed. They dicker over the rent and demand clauses protecting them from lawsuits.

"It takes us about nine months, and sometimes as long as two years, from the time we identify a building and negotiate with a landlord to get access," Rouhana said. "That's an awful long time."

Real estate interests make no apologies. "If you're putting something up on our roof, yes we want to see the engineering studies," Lederer said. "When all is said and done, the building owner is the one who is responsible to ensure the safety and security of the tenants."

Adding tension is the fact that property owners are themselves launching into telecommunications ventures with new companies such as Allied Riser Communication Corp., BroadBand Office Inc. and Bethesda-based eLink Communications. These new entrants wire up office buildings for high-speed Internet and telephone links, allowing landlords to flip a switch and sell service.

The companies are themselves products of the real estate industry. Allied Riser's chief executive, David Crawford, is a former general counsel at Equity Office Properties Trust, the largest publicly held real estate trust in the nation.

The companies said they don't prevent others from gaining access to their buildings. But most share revenue with property owners and some give out equity stakes in their ventures: a disincentive for a landlord to invite someone else in.

Last month, Hines Interest Limited Partnership—a global venture that owns 60 million square feet of real estate—threatened to evict WorldCom Inc. from an office building in Houston in a dispute over how much the carrier should pay for access to tenants. WorldCom then filed a complaint with the Texas Public Utility Commission, prompting Hines to withdraw its threat.

"We're in the real estate business," said Hines's building manager, Ben Quinton, who said WorldCom has balked at paying roughly \$15,000 a year for use of a 150-square-foot space. "We charge people money to rent space."

To deliver its signal into a building, Teligent needs an unobstructed path from its antenna perched on a customer's rooftop to its "hub"—another building connected by fiber or microwave radio to the core of its network and the rest of the wired universe.

When Teligent erected its hub in Chantilly, it inspected the skyline for other buildings within clear sight. One, it turned out, is part of Horowitz's portfolio.

*(continued on next page)*

(Continued from previous page)

That explains Garcia's arrival at Tysons Corner after navigating the George Washington Memorial Parkway in a dark Mercedes-Benz sedan—his parents' car. He arrived late: he hit a traffic jam caused by a construction crew laying fiber-optic cable.

The carpeted conference room is more crowded than Garcia expected. Horowitz, a man with a booming voice who has also opted for pin-stripes, has brought three partners, including his wife, Lisbeth, a pair of telecommunications consultants and an office manager.

Garcia finds the crew somewhat daunting, but he also knows that the group is large because Velsor's business is large. In addition to the building in Chantilly, just beyond Dulles Airport, Velsor owns 16 other properties in the area. Horowitz may sit between Teligent and hundreds of potential customers, but one successful meeting can bring them all within reach. Analysts said fixed wireless carriers such as Teligent typically capture as much as 30 percent of the building, once they get inside.

Horowitz clearly embraces the new technology, even as he complains it has outstripped the architecture. Walls don't have much room for new wiring. "Rooftops are very delicate," he said. "The more people you have traipsing up there, the more you get leaks."

But Garcia offers a vision of satisfied tenants, endowed with high-speed links to the Internet and cheaper phone service. A single antenna on the roof, and a little cabinet the size of a refrigerator to unscramble the signals inside, and Teligent can make it happen.

Horowitz tugs at his silver beard and frowns. Might Teligent's signals interfere with air traffic control at Dulles, he asks. Could the antenna somehow foul up existing services for other tenants?

"No, that's the beauty of it," Garcia assures. "It's more of a win-win."

"People go bananas about microwaves frying their brains, causing cancer," Horowitz said. "Any demonstrated health problems or issues? If you go into buildings, do you come up against any claims?"

Garcia is quick to the punch. "Our antennas give off less frequency than a refrigerator."

"Good," Horowitz said, "then you can cover us against any claims."

"That could go into an agreement," Garcia said.

*Agreement.* There's the word Horowitz has been waiting for. The quid for the quo.

"Unfortunately, we do not involve ourselves in revenue sharing," Garcia said. In any case, he argues, "That's the wrong reason to move forward. We want to do business together so your customers have choices."

As the meeting ends, there is only the promise of more talk. Strangely, no dollars have been discussed.

"What you want is nonexclusive access to the roof," Horowitz said, summarizing. "We get a relatively nominal fee. You do not revenue-share. Our reward shall come in the heaven of satisfied tenants."

His tone says that may not be enough to pry open the door.