

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Review of Commission Consider-) IB Docket No. 00-106
ation of Applications Under)
the Cable Landing License)
Act)

REPLY COMMENTS OF SPRINT

Sprint Communications Company L.P. ("Sprint")
respectfully submits its reply comments in response to the
Commission's June 22, 2000 Notice of Proposed Rulemaking,
FCC 00-210 ("NPRM") in the above-captioned proceeding.

The comments submitted in this proceeding agree that
the Commission needs to streamline and expedite its
processing of submarine cable license applications.
However, the comments also largely agree that the proposals
in the NPRM will not accomplish that goal because they are
too complex, too burdensome, and are likely to do more harm
than good if enacted.¹ Sprint urges the Commission to
streamline its processing of cable landing licenses along

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¹ See, e.g., the comments of Cable and Wireless USA, Inc. and of Viatel. Even Global Crossing Ltd. (GCL), which would have the Commission regulate submarine cables more rather than less, agrees that the Commission's proposals "do not lend themselves to streamlined processing." GCL Comments at 13.

the lines suggested by several commenters² instead of adopting the overly regulatory and highly complex proposals in the NPRM.

Sprint also responds briefly to certain issues raised by other commenters. First, Sprint opposes a number of statements by GCL. GCL asserts that "large consortia are no longer necessary."³ As pointed out in its own comments, Sprint's overarching goal is to obtain low cost, high quality facilities to serve its customers. Sprint currently achieves this goal through a mix of facilities that includes ownership in both traditional consortium cable systems as well as in private submarine cable systems.

It is presumptuous for GCL to decide how Sprint should fulfill its facilities needs. As Sprint demonstrated in its comments and as echoed by AT&T Corp., there are legitimate reasons (e.g. greater certainty and control, lower cost) why carriers would self supply rather than buy from a third party vendor like GCL. That ability to self-supply is an important constraint on the ability of vendors like GCL to charge supracompetitive prices.

As Sprint made clear in its comments, it believes that in the current competitive environment the future of

² See, e.g., Comments of Level 3 Communications, LLC and of 360Networks Inc.

consortium cables is cloudy.⁴ GCL agrees, saying that "the economic rationale for consortium cables is fading in an era with exploding demand for bandwidth and reduced cost of construction." If GCL believes its own words, it has little to fear from slow-moving, bureaucratic consortium cables and cannot justify the need for additional rules.

Also problematic are GCL's insinuation that consortium cables are nothing more than fora for owners to "coordinate pricing"⁵ and its sweeping assertion that the "structure of consortium cables with multiple landing parties is not conducive to independent competitive behavior."⁶ GCL assumes that owners on a consortium cable have the ability and incentive to impede competition in various ways. As several commenters, particularly those of AT&T's economists, Drs. Ordover and Willig, point out, it is a gross oversimplification to assume that all owners on a particular consortium cable have identical economic incentives to collude, degrade access, or otherwise harm competition.

Finally, GCL's so-called "35% rule" received virtually no support in the comments, and for good reason. As the comments of AT&T's economists point out, this restriction

³ GCL Comments at 7.

⁴ Sprint Comments at 7.

⁵ GCL Comments at 9.

would tend to reduce both the number and capacity of future consortium cables for no good reason and thus injure consumers.⁷ It would, not coincidentally, also guarantee GCL access to a generous portion of the undersea transport business by foreclosing carriers like Sprint from the ability to self-supply.

Most commenters who addressed the issue agree with Sprint's position that it is unwise to hold U.S. carriers responsible for less than ideal competitive conditions existing in foreign markets⁸ or to otherwise attempt to leverage control over the U.S. landing license process in an attempt to influence conditions in foreign markets.⁹ As Sprint and AT&T agree, the only sure outcome of such an attempt is to reduce the attractiveness of the U.S. as a landing point for new submarine cable systems.

Finally, Sprint disagrees with AT&T Corp.'s sweeping assertion that AT&T, Concert, or any other carrier cannot exercise market power because of their control over U.S. cable landing stations or backhaul facilities.¹⁰ As Sprint pointed out in its comments, the operators of cable landing

⁶ *Id.* at 20.

⁷ Affidavit of Drs. Ordovery and Willig at 47-50.

⁸ This is so even for carriers who have experienced those conditions firsthand. Comments of Level 3 Communications, LLC at 14.

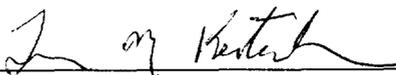
⁹ AT&T Comments at 16-18. *Cf.* GCL comments at 27, which would "require provisions that prevent foreign dominant carriers from engaging in discriminatory behavior in the supply of operating agreements."

¹⁰ AT&T Comments at 12-15.

stations play an important role in determining when and how an owner's circuits will be turned up, among other key functions. As such, these owners affect the ability of other owners to use their capacity and compete in the marketplace.

For example, it is of little comfort to an owner with heavy sunk investment on the China-US Cable Network whose circuits are not turned up on a timely basis by a cable station owner to be told that it is free to purchase capacity on the Japan-US Cable Network. For these reasons, Sprint reiterates that there is a significant and important role for the Commission to play even today in overseeing the activities of U.S. cable station owners.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **REPLY COMMENTS OF SPRINT** was sent by United States first-class mail, postage prepaid, on this the 20th day of September, 2000 to the parties on the attached page.


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