FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Robert E. (Bud) Cramer
U.S. House of Representatives
2350 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Cramer:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

The *NPRM* represents one step in the Commission's ongoing efforts to foster competition in local telecommunications markets pursuant to Congress' directive in the Telecommunications Act of 1996. These efforts are intended to bring the benefits of competition, choice, and advanced services to all consumers of telecommunications, including businesses and residential customers, regardless of where they live or whether they own or rent their premises. In particular, the *NPRM* addresses issues that bear specifically on the availability of facilities-based telecommunications competition to customers in multiple tenant environments, such as apartment buildings, office buildings, office parks, shopping centers, and manufactured housing communities.

The purpose of this proceeding is to explore broadly which actions the Commission can and should take to promote facilities-based competition to the incumbent local exchange carriers (ILECs). The item seeks comment on a wide range of potential Commission actions, in most instances without reaching any specific conclusions. For example, the item neutrally seeks comment on the legal and policy issues raised by a possible requirement that building owners who allow one or more telecommunications carriers access to facilities that they control make comparable access available to other carriers on a nondiscriminatory basis. The item also requests comment on whether the Commission can and should extend to providers of telecommunications service rules prohibiting restrictions on the placement of antennas used for over-the-air reception similar to those adopted for video programming services under section 207 of the 1996 Telecommunications Act. In addition, the item proposes and seeks comment on potential obligations on ILECs and other public utilities to permit access to their in-building facilities under certain provisions of the Communications Act of 1934. Finally, the *NPRM* seeks

comment on whether telecommunications providers, with or without market power, should be prohibited from entering into exclusive contracts with owners of multi-tenant buildings.

The Commission has not reached any conclusions regarding the matters discussed in the *NPRM*. The Commission currently is reviewing nearly 1000 comments that were filed on the *NPRM* and a related *Notice of Inquiry* by telecommunications companies, electric utilities, building owners, and State and local governments, including a number of comments that address the constitutional issues. As your letter indicates, certain potential actions discussed in the *NPRM* raise important takings issues. The Commission has not yet resolved the *NPRM*, but let me assure you that we are committed to ensuring that any requirements we adopt comport with the Fifth Amendment. To this end, our General Counsel's office is working closely with other Commission staff to evaluate carefully the constitutional issues raised by the *NPRM*, including any potential for government liability under the "just compensation" provision of the Takings Clause. I want to assure you that our staff will be considering carefully these important and complex constitutional issues, as well as other legal and policy issues raised by the *NPRM*, before it makes its recommendations to the Commission for its consideration.

I appreciate your interest and participation in this proceeding. We have placed your letter in the record of this proceeding and will give it full consideration along with all other comments. Please let me know if I can be of further assistance.

Sincerely,

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable James A. Gibbons
U.S. House of Representatives
100 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Gibbons:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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Sincerely,

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

May 24, 2000

The Honorable Mark Foley
U.S. House of Representatives
113 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Foley:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
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OFFICE OF
THE CHAIRMAN

May 24, 2000

The Honorable Gerald Weller
U.S. House of Representatives
424 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Weller:

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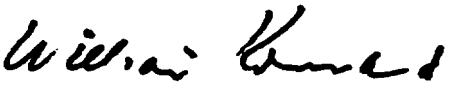

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Van Hilleary
U.S. House of Representatives
114 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Hilleary:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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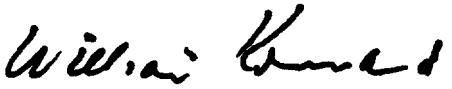

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Ted Strickland
U.S. House of Representatives
336 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Strickland:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Tom Coburn
U.S. House of Representatives
429 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Coburn:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Bob Riley
U.S. House of Representatives
322 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Riley:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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FEDERAL COMMUNICATIONS COMMISSION
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May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable John A. Boehner
U.S. House of Representatives
1011 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Boehner:

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I appreciate your interest and participation in this proceeding. We have placed your letter in the record of this proceeding and will give it full consideration along with all other comments. Please let me know if I can be of further assistance.

Sincerely,

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable David M. McIntosh
U.S. House of Representatives
1610 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman McIntosh:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

The *NPRM* represents one step in the Commission's ongoing efforts to foster competition in local telecommunications markets pursuant to Congress' directive in the Telecommunications Act of 1996. These efforts are intended to bring the benefits of competition, choice, and advanced services to all consumers of telecommunications, including businesses and residential customers, regardless of where they live or whether they own or rent their premises. In particular, the *NPRM* addresses issues that bear specifically on the availability of facilities-based telecommunications competition to customers in multiple tenant environments, such as apartment buildings, office buildings, office parks, shopping centers, and manufactured housing communities.

The purpose of this proceeding is to explore broadly which actions the Commission can and should take to promote facilities-based competition to the incumbent local exchange carriers (ILECs). The item seeks comment on a wide range of potential Commission actions, in most instances without reaching any specific conclusions. For example, the item neutrally seeks comment on the legal and policy issues raised by a possible requirement that building owners who allow one or more telecommunications carriers access to facilities that they control make comparable access available to other carriers on a nondiscriminatory basis. The item also requests comment on whether the Commission can and should extend to providers of telecommunications service rules prohibiting restrictions on the placement of antennas used for over-the-air reception similar to those adopted for video programming services under section 207 of the 1996 Telecommunications Act. In addition, the item proposes and seeks comment on potential obligations on ILECs and other public utilities to permit access to their in-building facilities under certain provisions of the Communications Act of 1934. Finally, the *NPRM* seeks

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Sincerely,

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

May 24, 2000

The Honorable Steven R. Rothman
U.S. House of Representatives
1607 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Rothman:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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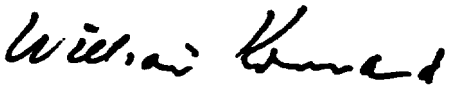

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Sander M. Levin
U.S. House of Representatives
2268 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Levin:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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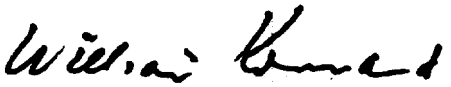

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

May 24, 2000

The Honorable John Isakson
U.S. House of Representatives
2428 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Isakson:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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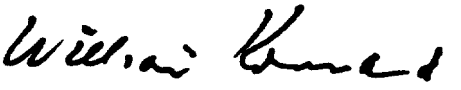

William E. Kennard
Chairman

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 24, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Zach Wamp
U.S. House of Representatives
423 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Wamp:

Thank you for your letter regarding the Commission's initiative to promote the development of telecommunications competition in multiple tenant environments. On July 7, 1999, the Commission released its *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 99-217 and CC Docket No. 96-98. Among other issues, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern regarding both the underlying need for regulatory action and the constitutional Takings Clause implications of potential actions discussed in the *NPRM*.

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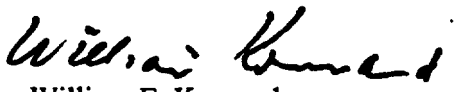

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