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Charles E. Griffin  
Government Affairs Director

JAN 10 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Suite 1000  
1120 20th St., N.W.  
Washington, DC 20036  
202 457-3926  
FAX 202 457-3110  
cgriffin1@att.com

January 10, 2001

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW - Room TWB-204  
Washington, DC 20554

EX PARTE OR LATE FILED

Re: *Ex Parte* - CC Docket Nos. 96-61 and 98-183  
1998 Biennial Regulatory Review -  
Review of Customer Premises Equipment and Enhanced Services Unbundling  
Rules in the Interexchange, Exchange Access, and Local Exchange Markets

Dear Ms. Salas:

On yesterday, Karen Reidy and Mary Brown (both of WorldCom), and I met with Jordan Goldstein, Legal Advisor to Commissioner Susan Ness.

At this meeting, we reiterated our previously stated position that the public policy decision on whether to allow bundling of basic telecommunications services with CPE and/or enhanced services should focus on the market power of carriers who wish to engage in such bundling, and on the overall competitive conditions in the relevant markets for the components of the bundle. The Commission acknowledged this fact in its 1980 CI-II Order when it stated that "[i]f the markets for components of [a] commodity bundle are workably competitive, bundling may present no societal problems ...".

The record in this proceeding strongly supports both CPE and enhanced services relief for the non-dominant carriers. Because non-dominant carriers do not have market power over any good or service they sell, they could not gain market power over any of the bundles they would sell. Therefore, no competitive harms could accrue to offset the significant benefits bundling relief would bring to these carriers and their customers.

In stark contrast to the positive public interest benefits non-dominant carrier relief would produce, allowing dominant incumbent local exchange carriers to bundle would pose unacceptable risks to competition. These risks apply not only to the markets for CPE and enhanced services but also to the

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markets for local exchange services, local access services, and other complementary goods or services these carriers would sell.

As stated by the esteemed economic professors Janusz Ordoover and Robert Willing in their *ex parte* declaration in this proceeding, the markets for basic local exchange and access services have yet to become competitive. Therefore, dominant carriers can use bundling as a vehicle to “cover up” discrimination and improperly leverage their market power into adjacent markets by claiming that the lower price of their bundled service “stems from efficiencies made possible by close integration of the [bundled] package”.<sup>1</sup>

The professors also stated that dominant carriers’ appeals for “regulatory parity” completely ignore the structural difference between bundling by firms facing effective competition in the relevant markets and by firms with market power. From a public policy perspective, this difference is substantial and compelling since bundling can serve as a mechanism for anticompetitive conduct by firms that lack robust and effective competition. For this reason, there is nothing unfair, anticompetitive, or illogical about allowing non-dominant carriers to bundle while retaining the bundling restrictions for the dominant carriers.<sup>2</sup> The Commission, therefore, should retain the anti-bundling prohibition for all dominant carriers until the markets for local exchange and access services become sufficiently competitive.

During this meeting, we also re-affirmed our position on the “unbundled option”. We stated that in a competitive marketplace, firms have an incentive to offer services that meet customers’ needs, not ignore them. If, on the other hand, a carrier does not meet those needs, there will be other carriers that will fill the void and offer customers what they want.

The “unbundled option” issue is a non-starter for dominant carriers since their current market conditions do not warrant bundling relief. Dominant carriers should continue to make all of their basic services available on an unbundled, tariffed, and non-discriminatory basis.

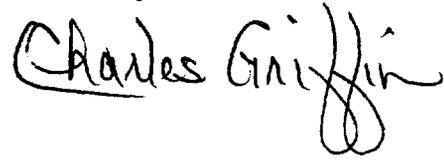
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<sup>1</sup> *Ex Parte* Declaration of Janusz A. Ordoover and Robert D. Willig, ¶ 61, filed June 21, 2000 with *ex parte* letter of AT&T Government Affairs Director, Charles E. Griffin.

<sup>2</sup> *Ex Parte* Declaration of Janusz A. Ordoover and Robert D. Willig, ¶ 66-67, filed June 21, 2000 with *ex parte* letter of AT&T Government Affairs Director, Charles E. Griffin.

In accordance with Section 1.1206(a)(2) of the Commission's rules, two copies of this Notice are being submitted to the Secretary of the Commission for inclusion in the public record for the above-captioned proceeding.

Sincerely,

A handwritten signature in black ink that reads "Charles Griffin". The signature is written in a cursive style with a large, looping "G" and a distinct "i" at the end.

cc: J. Goldstein