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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



Charles E. Griffin
Government Affairs Director

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

March 14, 2001

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

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, Mary Brown and Karen Reidy of WorldCom, and I of AT&T, met with Sarah Whitesell, Legal Advisor to Commissioner Gloria Tristani.

At this meeting, we reiterated our previously stated position that 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. Since no competitive harms could accrue to offset the significant benefits bundling relief would bring to these carriers and their customers, bundling relief for non-dominant carriers should be expeditiously granted.

We also repeated our concern about lifting the current CPE and enhanced services bundling prohibitions for the dominant carriers. As was persuasively argued by Drs. Janusz Ordover and Robert Willig in their *ex parte* declaration in this proceeding, the markets for basic local exchange and access services are not yet competitive. Therefore, allowing dominant incumbent local exchange carriers to bundle CPE and/or enhanced services would pose significant risks to competition. These risks arise because 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".¹ And, the affected

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

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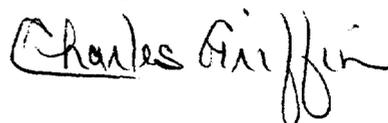
markets would include not only the markets for CPE and enhanced services but also the markets for local exchange services, local access services, and other complementary goods or services these carriers would sell.

In addition, we emphasized that cost accounting regulations -- which require the classification of accounts between regulated and unregulated services -- are insufficient to protect the public from dominant carrier abuses. This was recognized in part by this Commission when it established the CPE and enhanced services bundling prohibitions.

Nonetheless, if the Commission does relieve dominant carriers of these bundling restrictions, the Commission should expressly assert that dominant carriers must -- at least at the time such bundles and/or services are marketed: (1) make any and all basic services included in a bundle, or exclusively as part of an enhanced service, separately available to all customers in a non-discriminatory manner, and (2) fully disclose all network interface information, including logical, electrical, and physical interoperability specifications necessary for customers, competitors, and equipment suppliers to build and/or interconnect with dominant carrier-provided basic services.

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 cursive script that reads "Charles Griffin". The signature is written in black ink and is positioned below the word "Sincerely,".

cc: S. Whitesell
J. Donovan May