of more than $2.4 billion.\textsuperscript{134} Thus, the proposed transaction does not remove a significant supplier of Type II special access from providing service in BellSouth’s territory.

115. AT&T also does not have any special advantage as a supplier of Type II special access. We understand that BellSouth’s discount plans are generally available and that numerous carriers obtain discounts.\textsuperscript{135} Although AT&T purchases a significant volume of special access services, some other CLECs receive percentage discounts comparable to those obtained by AT&T.\textsuperscript{136} These facts indicate that AT&T does not receive special access pricing from BellSouth that gives it any special advantage as a supplier of Type II special access services.

116. Moreover, available data indicate that CLECs have also deployed fiber-based facilities throughout BellSouth’s territory, indicating that a variety of other firms have the ability to offer Type II special access services. The FCC concluded in its SBC/AT&T Order that “existing competitive collocations and the threat of competitive entry through collocation allow for special access competition in SBC’s in-region wire centers where AT&T competes today.”\textsuperscript{137} The factual circumstances in BellSouth’s territory support the same conclusion.

117. For a prior FCC proceeding, BellSouth has conducted a series of physical inspections of more than 100 central offices to determine the extent of fiber based collocators.\textsuperscript{138} These data indicate that another CLEC had a fiber-based collocation in each central office in which AT&T had facilities and that there were an average of 3.8 fiber-based collocators other

\begin{footnotes}
136. Declaration of Robert W. Bickerstaff, ¶ 13. Since certain discounts are based on its mix of circuits (e.g., DS1 vs. DS3), the length of time it is willing to commit to a term obligation, and the overall volumes it is willing to commit, the customer’s average discount will depend on this mix.
137. SBC/AT&T Order, ¶44.
138. These inspections were conducted to determine which of the wire centers met the “unimpaired” standard for local transport and channel terminations specified in the FCC’s Triennial Review Remand Order proceeding. BellSouth surveyed areas it considered to be most likely to support CLEC activity.
\end{footnotes}
than AT&T in the central offices in which AT&T had facilities. Further, as noted above, CLECs have collectively deployed far more local fiber than AT&T.

118. In sum, these data indicate that areas where AT&T is collocated are typically served by other CLECs. Thus, there is no basis to conclude that the proposed transaction would adversely affect competition in the provision of Type II special access services.

VIII. THE REDUCTION IN THE NUMBER OF INDEPENDENT ILECS RESULTING FROM THE PROPOSED TRANSACTION WILL NOT HARM COMPETITION.

119. The proposed transaction combines BellSouth’s nine-state local service territory with the thirteen-state service territory served by legacy SBC. Although these ILECs do not compete against each other in the provision of local service, the FCC concluded in 1999 in its evaluation of the SBC/Ameritech and Verizon/GTE mergers that mergers of large ILECs can be anticompetitive.139 This section provides an overview of the competitive concerns raised by the FCC in reviewing the previous mergers of large ILECs and shows that these concerns no longer apply today.

120. While acknowledging that ILECs have non-overlapping service territories and do not directly compete for customers, the FCC concluded in its review of the SBC/Ameritech and Bell Atlantic/GTE mergers that mergers of large ILECs could harm competition to the extent they:

- increase the incentive for ILECs to discriminate against entrants; or
- harm the ability of regulators to evaluate ILECs’ performance in opening local markets to competition.

121. None of these concerns is applicable here, for the reasons explained below.

A. THE PROPOSED TRANSACTION DOES NOT HARM CONSUMERS BY INCREASING THE MERGED FIRM'S INCENTIVE TO ENGAGE IN TECHNICAL DISCRIMINATION AGAINST CLECS.

1. Overview of FCC discrimination concerns in 1999

122. In its 1999 SBC/Ameritech Order, the FCC concluded that “the proposed merger also would increase the incentives and ability of the larger merged entity to discriminate against rivals….“\textsuperscript{140} The FCC’s concerns at that time were based on what is now referred to as the “footprint” theory, which had been advocated by parties opposing the merger. To briefly review, certain opponents of that transaction argued that technical discrimination by one ILEC could discourage CLEC entry not only in the ILEC’s own service territory but also in other ILECs’ territories. That is, in their view, if one ILEC discriminates against a CLEC by providing poor quality interconnection or poor provisioning service, the CLEC will be deterred from entering into areas served by other ILECs as well as the discriminating ILEC. This reflects the opponents’ view seven years ago that efficient CLECs would not necessarily restrict activity to a single ILEC’s region.

123. The FCC accepted the merger opponents’ theory that discrimination against CLECs by one ILEC creates an “externality” that benefits other ILECs. In the FCC’s view, a merger that increases the size of an ILEC’s service territory enables the ILEC to capture a portion of the external benefits of discrimination and thus increases its incentive to discriminate. In the FCC’s words:

\textsuperscript{140} SBC/Ameritech Order, ¶ 60. See also Bell Atlantic/GTE Order, ¶ 173.
In many cases, discriminatory conduct by an incumbent LEC in its region affects a competitor in areas both inside and outside the incumbent’s region. […] Because after the merger the larger combined entity would realize more of the gains from such external effects, the marginal benefit and corresponding incentive to discriminate in each area would increase.\textsuperscript{141}

124. Before turning to the specific reasons why the concerns identified by the FCC in 1999 are no longer applicable, we make two preliminary observations.

125. First, whatever the merits of the FCC’s “footprint” analysis as a matter of economic theory, the FCC in its SBC/Ameritech Order presented no empirical analysis to support its view that ILEC mergers deter entry and expansion by CLECs. We had undertaken an econometric analysis that demonstrated that prior mergers of large ILECs did not have an adverse effect on CLEC entry.\textsuperscript{142} That is, our empirical analysis yielded results that were inconsistent with the “footprint” theory. The FCC did not accept the conclusions of this analysis, citing concerns about the adequacy of the measure of CLEC activity utilized in the analysis.\textsuperscript{143} Since that time, however, a number of other researchers, including both academics and FCC staff members, have relied on the same measure of CLEC activity in several peer-reviewed studies of

\textsuperscript{141} SBC/Ameritech Order, ¶¶ 192-3. See also Bell Atlantic/GTE Order, ¶ 178.
\textsuperscript{142} See Dennis Carlton and Hal Sider, Report to the FCC on Supplemental Analysis of the Katz/Salop Hypothesis, April 13, 1999. An extended version of this analysis, also co-authored with Thomas Stemwedel, has been published in ABA Section of Antitrust Law, \textit{Econometrics: Legal, Practical and Technical Issues} (2005). The published version of this analysis incorporates three additional calendar quarters of data that became available after completion of our 1999 analysis. Our prior work also highlighted that the merger opponents’ theory also was based on contradictory assumptions that: (i) CLECs recognize the incremental discrimination and respond to it by scaling back their investments; and (ii) regulators do not recognize that ILECs have increased their discriminatory activity.
\textsuperscript{143} SBC/Ameritech Order, ¶252.
CLEC entry and have endorsed its use for such purposes.\textsuperscript{144} Therefore, while not essential to the resolution of any issue in this proceeding, we continue to hold the views that our analysis was reliable and that available empirical evidence is inconsistent with the footprint theory.

126. Second, competition has grown substantially since the FCC’s analysis of ILEC mergers in 1999 and 2000. Since that time, CLEC activity has expanded dramatically and a large number of CLECs have deployed facilities including local fiber and now offer advanced services. Deployment of fiber networks and provision of services require various forms of cooperation and interconnection from ILECs.

- As discussed in our analysis of the impact of the proposed transaction on special access competition in Section VII above, available data from a variety of sources indicate a wide variety of CLECs have deployed fiber and facilities in metropolitan areas across the United States. For example, GeoTel data identify 17 CLECs with fiber networks in Atlanta and 15 CLECs fiber networks in Miami. (See Table 7.1 above.)

- There has been rapid growth in recent years in a wide variety of facilities-based mass market carriers that compete with services provided by ILECs including, for example, cable telephony, wireless voice services, and wireless broadband services.

127. More generally, the widespread entry and expansion of services that compete with those provided by ILECs (but require ILEC cooperation), indicates that the FCC’s concerns that ILEC mergers will lead to discrimination that deters entry and expansion of CLECs have not materialized. This experience provides no basis to conclude that this proposed merger would result in technical discrimination that would deter CLEC activity or deployment of other services that compete with those provided by ILECs.

2. The concerns expressed by the FCC do not apply in today’s competitive environment.

128. We now explain why the “footprint” concerns raised by the FCC in its prior orders are no longer applicable in today’s competitive environment. As the FCC recognized in its SBC/Ameritech Order, competition is “the one sure remedy for the incumbent LEC’s threat of discrimination. […] When local markets are open, discrimination in access cannot succeed because others will compete to provide fair access.”145 The rapid changes in the competitive environment for mass market and business customers in recent years reduce the incentive and ability of ILECs to engage in the type of discrimination that was the focus of the FCC’s 1999 concerns about the effect of ILEC mergers on discrimination incentives.

129. In contrast to competitive conditions at the time of the FCC’s SBC/Ameritech Order, ILECs today have even less ability to engage in technical discrimination without detection. This is because ILECs today face greater facilities-based competition for both business customers, from providers using competitive metropolitan fiber networks, and for mass market customers, from cable firms and wireless carriers. These facilities-based competitors typically need only to interconnect with ILECs without leasing underlying facilities. In contrast,

145. SBC/Ameritech Merger Order, ¶ 230.
ILEC rivals in 1999 relied to a greater extent on facilities leased from ILECs and thus faced greater potential discrimination.

130. The growth of competition also restricts ILECs’ incentives to discriminate because the presence of these rivals limits the ability of ILECs to benefit from discrimination. For example, the growth of local CLEC fiber networks means that customers that face ILEC discrimination frequently can utilize another carrier that does not depend on the ILEC’s facilities. As a result, in comparison with 1999, discrimination by an ILEC today is less likely to enable the ILEC to retain customers but instead more frequently will drive customers to rivals’ local networks. This, of course, reduces an ILEC’s incentive to engage in discrimination.

131. Further, in the prior merger orders, the Commission concluded that it lacked the means to detect adequately discrimination by ILECs. But, as explained in greater detail below, the FCC and state regulators now have a decade of experience with the provisioning of UNEs and interconnection arrangements. Both AT&T and BellSouth are subject to a wide variety of performance metrics designed to detect discriminatory provisioning of UNEs and regulators have several years experience in evaluating ILECs’ performance. The improved ability of regulators to detect discrimination reduces ILECs incentive to engage in discriminatory (by increasing the probability that such actions will be punished).

B. THE PROPOSED TRANSACTION WILL NOT HARM COMPETITION BY REDUCING THE ABILITY OF REGULATORS TO EVALUATE ILEC PERFORMANCE.

132. In its SBC/Ameritech Order in 1999, the FCC concluded that ILEC mergers can harm competition by reducing the ability of regulators to monitor ILEC performance. The FCC concluded that the SBC/Ameritech merger:
frustrates the ability of the Commission (and state regulators) to implement the local market-opening provisions of the 1996 Act. The merger … would have an adverse impact on the ability of regulators and competitors to implement the competitive goals of the 1996 Act by deregulatory means.  

133. This section shows that there are no substantial “benchmarking” concerns with regard to the AT&T/BellSouth merger. There have been fundamental changes in the telecommunications industry since the SBC/Ameritech merger that greatly reduce concerns that the proposed merger will harm competition by impeding the ability of regulators to monitor ILEC performance.

1. **The increase in competition faced by ILECs reduces potential concerns about the loss of a regulatory benchmark.**

134. Since the FCC expressed “benchmarking” concerns in 1999, competition has increased in nearly all segments of the telecommunications industry and competition has come to play an increasingly important role in constraining ILEC performance in providing wholesale services and unbundled network elements to CLECs and others. Put simply, under competitive circumstances, carriers that fail to provide adequate wholesale service will lose in the marketplace. For example, an ILEC facing intermodal competition that fails to provide adequate wholesale service to a CLEC risks losing subscribers to the intermodal rival. Under these circumstances, intermodal competition rather than regulation provides ILECs with the incentive to provide efficient wholesale services.

135. A regulatory benchmark is of far less competitive significance today than at the time of the SBC/Ameritech transaction when a major objective of the FCC was to “to enforce provisions of the 1996 Act that mandate competitive access to facilities and services.” Many of these goals have been achieved, as reflected in the granting of long distance authority to

146. See: SBC/Ameritech Order, ¶57, Bell Atlantic/GTE Order, ¶96.  
147. SBC/Ameritech Order, ¶109.
ILECs in all 50 states. Moreover, the failure of UNE-P as a mass market entry strategy lessens the importance of benchmarks in promoting this form of entry.

2. Regulators have developed and implemented a variety of measures of ILEC performance since 1999.

136. Much of the FCC’s “benchmarking” concerns in its 1999 SBC/Ameritech Order centered on concerns about regulators’ attempts “to open markets to competition under sections 251 and 271 and state law.” At the time, the FCC and state regulators were struggling to develop a framework for evaluating ILEC performance in opening their markets to competition including the need to meet unbundling and resale obligations specified by the Telecommunications Act of 1996. These obligations had little precedent and required the development and implementation of a variety of new methods of monitoring ILEC performance.

137. Since that time, regulators have successfully developed and implemented a variety of measures for evaluating ILEC compliance with respect to obligations under the Telecommunications Act. More specifically, the FCC and state regulators, together with ILECs and CLECs, developed a set of performance metrics to ensure that ILECs had complied with interconnection obligations under the Telecommunications Act and state laws.

138. For example, in 2002 the California Public Utilities Commission (CPUC) created a “performance incentive plan” that established an automated system for establishing financial penalties for ILECs that failed to provide adequate service to CLECs in providing interconnection. The CPUC wrote:

We have created a set of procedures for allocating payments by the ILEC when OSS [operations support systems] performance to the CLEC is deficient. In effect, we have set forth a self-executing decision model that applies barrier-identifying criteria to the performance measurements results and charges the ILECs

148. SBC/Ameritech Order, ¶ 57. See also Bell Atlantic/GTE Order, ¶ 96.
monetary amounts for deficient performance. A self-executing plan is one that requires no further review and no proceedings.\textsuperscript{149}

139. The CPUC also monitors a number of additional performance measures used for diagnostic purposes.\textsuperscript{150} In total, the CPUC established 44 separate performance metrics to monitor ILEC-CLEC interconnections.\textsuperscript{151} To cite a handful of examples:

- **ILEC order provisioning** is monitored using metrics that include:
  - Average interval between ILEC receipt of an order and when the ILEC commits to a delivery date;
  - Average interval between ILEC receipt of an order and when notice is given that the order is rejected;

- **ILEC service provisioning** is monitored using metrics that include:
  - Percentage of due dates missed;
  - Average time until order completion;
  - Number of trouble reports generated prior to order completion.

- **ILEC network performance** is monitored using metrics such as:
  - Percent blocking (calls not completed) on common trucks;
  - Percent blocking on interconnection trunks;

- **ILEC performance in providing collocation** is monitored using metric such as:
  - Average time to respond to a collocation request;
  - Average time to provide a collocation arrangement.

140. AT&T and other ILECs today report a large number of performance metrics on a routine basis. In its role as an ILEC, AT&T tracks between 35 and 128 performance metrics per

\textsuperscript{151} See Appendix J to the CPUC Opinion.
state, for a total of 1,001 state-level performance metrics each month over its 13 state region. These measures are also calculated by local area and CLEC. In total, AT&T reports 2.3 million performance measures on a monthly basis.¹⁵²

C. THE PROPOSED TRANSACTION RAISES NO CONCERNS ABOUT THE ELIMINATION OF POTENTIAL MASS MARKET COMPETITION.

141. In its SBC/Ameritech Order in 1999, the FCC concluded that SBC and Ameritech were potential entrants into the provision of mass market services in each other’s territories and that the merger eliminated this potential competition.¹⁵³

142. The proposed merger raises no such concerns as BellSouth cannot be considered a significant potential entrant today to the provision of mass market services in the legacy SBC service territory.¹⁵⁴ In addition, as discussed above, AT&T is withdrawing from, not expanding traditional wireline services to mass market consumers in BellSouth’s territory. Thus, the proposed transaction does not raise the potential competition concerns that were, in part, the basis of the FCC’s concerns in 1999.

143. Moreover, the experience of recent years indicates that an ILEC has no special advantage relative to other CLECs in providing mass market services outside of its service territory. For example, BellSouth does not have a significant customer base in legacy SBC areas and has no significant network assets that can be used to serve mass market customers outside of its service territory. We are unaware of any ILEC that has been commercially successful at providing mass market services outside of its service territory and there is no basis to conclude

¹⁵². Declaration of James S. Kahan, ¶ 54.
¹⁵³. “The merger eliminates SBC and Ameritech as significant potential participants in the mass market for local exchange and exchange access services in the other’s region.” SBC/Ameritech Order, ¶ 56. The FCC made a similar conclusion in its Bell Atlantic/GTE Order, ¶ 100.
¹⁵⁴. Declaration of Barry L. Boniface, ¶ 35.
that BellSouth would pursue any out-of-region mass market entry strategy, especially in the face of the emergence in recent years of significant competition from VoIP and wireless technologies.

144. Within BellSouth’s territory, as discussed above, legacy AT&T had ceased marketing traditional mass market services prior to the SBC/AT&T merger. The FCC has previously concluded that AT&T no longer plays a significant role in the establishment of market prices for mass market services.\(^{155}\) As discussed in Section V above, AT&T has continued to pursue this strategy since completion of the SBC/AT&T merger.

145. In short, there is no factual basis for any concern that the proposed merger would eliminate “potential competition.”

146. In sum, the concerns expressed by the FCC in 1999 regarding the potential harm from mergers of large ILECs are not applicable today. The widespread CLEC entry in recent years shows that the FCC’s concerns have not materialized and is consistent with our prior arguments that the FCC’s 1999 concerns were based on an unsupported economic theory. The growth of facilities based competition lessens ILECs incentive and ability to discriminate. Changes in industry conditions, including the opening of local markets to competition and the failure of UNE-based strategies of mass market entry have also mitigated concerns that ILEC mergers reduce regulators’ ability to devaluate ILEC performance.

**CONCLUSION**

147. We conclude that the proposed transaction will not adversely affect competition for any of the services provided by AT&T and BellSouth. Instead, the proposed transaction will promote competition and benefit consumers by creating a more efficient firm that will be better

\(^{155}\) See SBC/AT&T Order, ¶ 103, stating that “AT&T ceased being a significant participant” for mass market services, and that “SBC’s current and future pricing incentives are based more on likely competition from intermodal competitors and the remaining competitive LECs.”
position to develop and deploy new products and services for business and mass market consumers.
I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Signature:  
Dennis W. Carlton

Date:  
3/29/06
I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Signature: [Signature]

Hal S. Sider

Date: March 29, 2006
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EDUCATION


EMPLOYMENT


UNIVERSITY OF CHICAGO, Graduate School of Business (1984 - present): Professor of Economics.


UNIVERSITY OF CHICAGO, Department of Economics: Assistant Professor (1976 - 1979): Associate Professor (1979 - 1980).


OTHER PROFESSIONAL EXPERIENCE

HARVARD UNIVERSITY, Public Policy Summer Course in Economics (1977): Professor.

BELL TELEPHONE LABORATORIES (Summers 1976, 1977).


FIELDS OF SPECIALIZATION

Theoretical and Applied Microeconomics
Industrial Organization

ACADEMIC HONORS AND FELLOWSHIPS

M.I.T., National Scholar Award, 1968
Edwards Whitacker Award, 1969
Detur Book Prize, 1969
John Harvard Award, 1970
Phi Beta Kappa, 1971
National Science Foundation Fellowship, 1972 - 1975
Recipient of Post-doctoral Grant from the Lincoln Foundation, 1975
National Science Foundation Grant, 1977 - 1985
Recipient of the 1977 P.W.S. Andrews Memorial Prize Essay, best essay in the field of Industrial Organization by a scholar under the age of thirty
Alexander Brody Distinguished Lecture, Yeshiva University, 2000
Keynote Address to the International Competition Network, Mexico, 2004
Milton Handler Lecture, New York, 2004
Distinguished Visitor, University of Melbourne, April 2005

PROFESSIONAL AFFILIATIONS AND ACTIVITIES

Associate Editor, Regional Science and Urban Economics, 1987 - 1997
Associate Editor, The International Journal of Industrial Organization, 1991 - 1995
Member, American Economics Association, Econometrics Society
National Bureau of Economic Research, Research Associate
Member, Advisory Committee to the Bureau of the Census, 1987 - 1990
Consultant on Merger Guidelines to the U.S. Department of Justice, 1991 - 1992
Accreditation Committee, Graduate School of Business, Stanford University, 1995
Visiting Committee, MIT, Department of Economics, 1995 - present
Resident Scholar, Board of Governors of the Federal Reserve System, Summer, 1995
Member, Advisory Board, Economics Research Network, 1996 - present
Member, Steering Committee, Social Science Research Council, Program in Applied Economics, 1997 - 1999
Participant in meetings with Committee of the Federal Reserve on Payment Systems, June 5, 1997
Member, Advisory Board of Antitrust and Regulation Abstracts, Social Science Research Network, 1998 - present
Participant in the Round Table on the Economics of Mergers Between Large ILECS before the Federal Communications Commission, February 5, 1999
Advisory Board, Massachusetts Institute of Technology, Department of Economics, 1999 - present
Chairman, FTC Round Table on Empirical Industrial Organization (September 11, 2001)
Professor, George Mason Institute for Judges, October 2001
Consultant on Merger Guidelines to the FTC, 2003
Presidential Appointment to the Antitrust Modernization Commission, March 17, 2004 - present
Co-Editor, Competition Policy International (CPI), 2004 – present
Advisory Board, Journal of Competition Law and Economics 2004- present

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Affidavit of Dennis W. Carlton in Re: In the matter of Beatrice C. Romero vs. Philip Morris Price Fixing Allegations: In the United States First District Court State of New Mexico County of Rio Arriba, April 15, 2005.

Deposition, Expert Reports, Written Direct Examination, Deposition and Trial Testimony of Dennis W. Carlton in Re: United States of America v. Philip Morris USA Inc. (f/k/a Philip Morris Incorporated), et al., In the United States Court for the District of Columbia, Civil Action No. 99-CV-2496 (GK), September 10, 2002 (Deposition); April 29, 2005 (Expert Report); May 3, 2005 (Written District Examination); May 10, 2002 (Expert Report); May 23, 2005 (Written Direct Examination); May 23, 2005 (Deposition), June 2, 2005 (Trial Testimony).


Expert Report and Deposition of Dennis W. Carlton in Re: Fresh Del Monte Pineapples Antitrust Litigation In the United States District Court for the Southern District of New York, Civil Action No. 03-CV-10230 (RMB), February 3, 2006 (Expert Report); February 22, 2006 (Deposition).
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EDUCATION


EMPLOYMENT


FIELDS OF SPECIALIZATION

Applied Microeconomics
Econometrics
Industrial Organization
Telecommunications
Labor Economics

ARTICLES


"Economic Incentives and Safety Regulation," American Economist (Summer 1983).


REPORTS


MISCELLANEOUS

University-Industry Dissertation Fellowship, University of Wisconsin, 1979-80.

Referee for:
Journal of Human Resources National Science Foundation
Journal of Industrial Economics Policy Studies Journal
Journal of Law and Economics Social Science Research Council
Journal of Legal Studies U.S. Department of Health and Human Services
National Commission on Employment Policy Antitrust Law Journal
TESTIMONIAL EXPERIENCE


In the Matter of Proposed Merger of SBC Communications and AT&T Corp., New Jersey Board of Public Utilities. Direct Testimony (May 4, 2005), Rebuttal Testimony (June 5, 2005), on behalf of SBC and AT&T, (with Dennis Carlton).

In the Matter of SBC Communications Inc. and AT&T Corp., Application for Approval of Transfer of Control, Federal Communications Commission, WC Docket No. 05-65. Declaration (February 21, 2005), Reply Declaration (May 10, 2005), Ex Parte Presentations (June 28, 2005, July 6-7, 2005, and July 18, 2005), on behalf of SBC and AT&T, (with Dennis Carlton).


In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, Federal Communications Commission, WC Docket No. 02-112 and CC Docket 00-175, 2000 Biennial Regulatory Review of Separate Affiliate Requirements of Section 64.1903 of the Commission’s Rules. Declaration (June 30, 2003), Reply Declaration (July 28, 2003), on behalf of Qwest, Verizon and SBC, (with Dennis Carlton and Allan Shampine).

Report to the Civil Rights Division of the U.S. Department of Justice, Racial Differences in Citations for Traffic Violations in Cleveland, Ohio, (June 27, 2003) on behalf of the U.S. Department of Justice, (with David Gross).


In the Matter of Auction Houses Antitrust Litigation, United States District Court Southern District of New York, Master File No. 00 Civ 0648 (LAK). Declaration (February 2001), on behalf of Sotheby's Holdings Inc., (with William Landes).
In the Matter of Joint Application of Northpoint Communications and Verizon
Communications for Authority to Transfer Control of Blanket Authorization to
Provide Domestic Interstate Telecommunications Services as a Non-Dominant Carrier, Federal Communications Commission, CC Docket No. 00-157. Reply Declaration (October 2000), on behalf of Verizon and Northpoint, (with Dennis Carlton).


Gas City, Ltd. v. Indiana Department of Transportation, Circuit Court of St. Joseph County, Indiana. Affidavit (March 2000), on behalf of Gas City.


In the Matter of Merger of Qwest Communications International Inc. and U S WEST, Inc., Federal Communications Commission, CC Docket No. 99-272. Declaration (October 18, 1999), Ex Parte Comments (February 2000), on behalf of Qwest and U S WEST, (with Dennis Carlton).


In the Matter of Application of WorldCom, Inc., Corp., for Approval to Transfer Control of MCI Communication to WorldCom, Inc., Department of Public Service of the State of West Virginia. Testimony (June 17, 1998), Oral Testimony (July 2, 1998), on behalf of WorldCom.

In the Matter of the Application of WorldCom, Inc. and MCI Communications Corporation for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc., Department of Public Service Regulation, Public Service Commission of the State of Montana, Docket No. D97.10.191. Testimony (May 12, 1998), on behalf of WorldCom.

Application of WorldCom, Inc. for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc., Public Utilities Commission of the State of Colorado, in re Docket No. 97A-494T. Testimony (March 26, 1998), Cross-Examination (April 2, 1998), on behalf of WorldCom.

Petition of WorldCom, Inc. for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc., Florida Public Service Commission, Docket No. 971375-TP. Affidavit (February 27, 1998), on behalf of WorldCom, (with Dennis Carlton).

In the Matter of Application of WorldCom, Inc. for Approval to Transfer Control of MCI Communications Corporation to WorldCom, Inc., New York State Public Service Commission, Case 97-C-1804. Affidavit (February 16, 1998), on behalf of WorldCom, (with Dennis Carlton).

In the Matter of Applications of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications to WorldCom, Inc., Federal Communication Commission, CC Docket No. 97-211. Declaration (January 25, 1998), Second Declaration (March 19, 1998), on behalf of WorldCom and MCI, (with Dennis Carlton).


Smith v. Amtrak, Circuit Court of Cook County, IL, Case 92 L 10525. Deposition (November 1997), Trial Testimony (January 1998), on behalf of Smith.


W. Borysiewicz v. M. Gilblair, Circuit Court of Cook County, Illinois. Deposition Testimony (August 1994), and Trial Testimony (September 1994) on behalf of Borysiewicz.


G. Bowan v. The Sales Force Companies, U.S. District Court for The Western District of Missouri, Case No. 92-0496-CV-W-2. Affidavit (February 1993), on behalf of Sales Force.


Castaneda v. Baron Wire and Steel Inc., Circuit Court of Cook County, Illinois, Municipal Department, Second District. Deposition Testimony (February 1992), on behalf of Castaneda.


Times Herald Printing Company v. A.H. Belo Corp. and Dallas Morning News Company, District Court of Harris County Texas, 280th Judicial District. Deposition Testimony (April 1990), on behalf of Dallas Morning News.


Application of Illini Carrier L.P. to provide natural gas transportation services, Testimony (April 1988), on behalf of Illini Carrier.
Appendix 2
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### External Inspection

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**SAMPLE SURVEY FORM**