

March 24, 1999

Honorable Craig A. Glazer, Chairman
Honorable Jolynn Barry Butler
Honorable Rhonda Hartman Fergus
Honorable Judith A. Jones
Honorable Donald L. Mason
The Public Utility Commission of Ohio
180 East Broad Street
Columbus, Ohio 43266

Re: Joint Application of SBC Communications Inc., SBC Delaware, Inc., Ameritech Corporation, and Ameritech of Ohio for Consent and Approval of a Change of Control (Case No. 98-1082-TP-AMT).

We, the undersigned carriers, and the Competitive Telecommunications Association/American Carrier's Telecommunication Association (CompTel/ACTA)¹, are committed to achieving local competition that spans the full spectrum of customers, geographies, technologies and services.² In our view, such a result depends absolutely on an unambiguous and unwavering adherence to core provisions of the Telecommunications Act.

¹ CompTel/ACTA is a national industry association of competitive telecommunications providers. CompTel/ACTA's 319 members include competitive local exchange carriers, small and mid-sized long distance carriers, Internet providers, and other competitive telecommunications service providers. The Competitive Telecommunications Association and America's Carriers Telecommunications Association combined their memberships in early 1999.

² Generally, the undersigned carriers have not formally participated in the review of the SBC/Ameritech merger by the Public Utility Commission of Ohio. In part, this decision reflects the limited resources of smaller entrants, as well as the fact that not all of the carriers have significant local operations in Ohio at this time. The national significance, however, of a Proposed Stipulation that threatens to weaken one of the most competitively important provisions of the Telecommunications Act (i.e., the Act's strong prohibition against discrimination in carrier services/arrangements), is cause for concern for the entire competitive local exchange industry.

Because the Proposed Stipulation that would conclude the above cited proceeding violates the basic tenet of nondiscrimination, it is not in the best interests of consumers in Ohio.³ Therefore, we strongly recommend that the Commission reject it.

Specifically, we are opposed to the Proposed Stipulation's provisions that are intended to redress the competitive harm of the proposed merger through a set of temporary and artificial "competitive inducements."⁴ In our view, these inducements fall far short of providing an effective remedy for the harm caused by the merger. More fundamentally, however, we are opposed to the *restrictions* in the Proposed Stipulation that would limit the availability of these "inducements" based on the network configuration, customer base, size or market entry method of entrants. For instance, the Proposed Stipulation would:⁵

- * deny discounted loop rates to entrants that also purchase local switching;
- * limit improved collocation policies to only those carriers serving residential customers;
- * effectively restrict discounted loop rates and increased resale discounts to those carriers pre-positioned to offer residential service in Ohio quickly (because these discounts are limited by time and volume); and
- * refuse additional OSS support to carriers, including similarly situated "small" carriers, on the basis of an arbitrarily selected "revenue-limit."⁶

³ Proposed Stipulation and Recommendation ("Proposed Stipulation"), filed February 23, 1999.

⁴ Specifically, the Proposed Stipulation would reduce loop rates, increase the resale discount, and potentially reform Ameritech's collocation offerings, but only under certain limiting conditions.

⁵ This listing of the Proposed Stipulation's discriminatory provisions is not intended to be exhaustive.

⁶ The Proposed Stipulation restricts "small carrier" OSS support to companies with less than \$300 million in telecommunications revenue.

The above restrictions violate the critical provision of the Telecommunications Act that all carrier-arrangements -- interconnection, collocation, resold services and unbundled network elements -- must be nondiscriminatory⁷. This principle of nondiscrimination -- in essence, that any entrant, at any time, has an equal right to a carrier-arrangement, irrespective of its technology, network configuration, or market strategy -- is the fundamental canon upon which local competition depends. This core principle must be held inviolate, for without its protection the basic fabric of the Act unravels. Once critical carrier-arrangements are open to manipulation -- no matter how noble the *initial* purpose -- the principle is corrupted and the foundation for meaningful local competition weakened.

Local competition -- particularly, widespread mass-market local competition *for both residential and business customers*-- will only succeed if the barriers to competition are correctly identified and remedied. We encourage the Commission to investigate the cause of such barriers and to adopt solutions that will be permanent and successful. These solutions, however, must comply with the Act's core provisions -- not only to be lawful, but, just as importantly, to be successful. The barriers that today limit local competition cannot be corrected through artificial inducements of limited duration and discriminatory application.

⁷ See 47 U.S.C. §§ 251(c)(2)(D); 251(c)(3); 251(c)(4)(B); 251(c)(6); 252(d)(1).

In closing, the undersigned carriers and CompTel/ACTA are committed to bringing the benefits of local competition to all Ohioans. To achieve this vision, however, requires that the Telecommunications Act be fully implemented -- an outcome that neither the Proposed Stipulation, nor the merger that it would approve, will accomplish.

Respectfully submitted,

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