

Statement Of
Commissioner James H. Quello
Dissenting In Part

August 1, 1991

In re: Competition in the Interstate Interexchange Marketplace,
Docket No. 90-132

I believe that the Commission has taken a step forward in adopting this Report and Order. But it is an unnecessarily tentative step.

The majority looks at the market for 800 services and sees "captive customers" and "leveraging" although the record fails to support such a vision. Thus, the majority will restrict AT&T's competitive efforts by prohibiting bundling of 800 services within competitive contracts.

While relying upon the fears and fantasies of various competitors, the majority has ignored the pleas of those for whom a competitive marketplace is supposed to benefit; the customers. Even as this country's industries are locked in a competitive struggle with their global counterparts, this Commission finds itself protecting the profits of a portion of the telecommunications industry at the expense of customers who rely upon that industry for a competitive edge. Not that all of these customers believe that a fully competitive AT&T is their choice to provide a range of vital telecommunications services. Many do not. They do believe, however, that handicapping the strongest competitor--as the majority continues to prefer--lessens competition and reduces their opportunities to leverage one competitor against another.

AT&T's competitors have made much of their claim that AT&T is engaged in leveraging their captive customers of 800 services to promote other bundled services. In a letter to the FCC General Counsel on July 12th, the Ad Hoc Telecommunications Users Committee addresses the leveraging argument. Although referring specifically to Tariff 12 offerings, Ad Hoc's comments would appear to apply equally to the bundling of 800 services within contract offerings.

"U.S. Sprint has submitted detailed breakdowns of the pricing of over seventy VTNS options. If the competitors' 'leveraging' argument were correct, it is highly likely that patterns would appear in the pricing of these options correlating

650

with the respective proportions of inbound traffic in the options. Surprisingly, neither U.S.Sprint nor any other proponent of the 'leveraging' theory analyzed the data to determine whether such patterns exist. Perhaps this was because of what such an analysis reveals: none of the patterns which might be predicted by the 'leveraging' theory are in fact present in the data. This is shown by an exhaustive analysis conducted by Economics and Technology, Inc. (ETI), and provided in this record as Attachment A to the Reply Comments on Tariff 12 Issues on Remand of The Ad Hoc Telecommunications Users Committee and Other Specified Users. That analysis--which stands undisputed in the record--shows unequivocally that none of the pricing behaviors that could plausibly have been predicted to result from unfair leveraging has occurred. At&T's competitors have provided no analysis of these or any other data which would lead to a contrary conclusion." (Emphasis in the original.)

Absent any shred of evidence in the record as to where leveraging has occurred, the majority must be content to speculate that such anti-competitive activity "might" occur or "could" occur. The price of such speculation must be paid by the customers who could and should benefit from full and fair competition.

I support this Report and Order as a step toward a competitive telecommunications marketplace, albeit a tentative one. Where it fails to recognize the competitive reality of the 800 services market, I dissent.