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**Testimony before the United States Senate Committee on the
 Judiciary Antitrust and Business Subcommittee
 Oversight Hearing on Consolidation in the Telecommunications
 Industry**

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Chairman

Sprint

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Dirksen Senate Office - Room 226

Thank you for this opportunity to present Sprint's views on the recently announced megamerger of Bell Atlantic and GTE. The Committee's hearing comes at a critical crossroads for the telecommunications industry. The amount of consolidation in local telephone markets currently being attempted, against the backdrop of already completed large mergers, is of great concern. The recent merger proposals, most especially, Bell Atlantic- GTE and SBC-Ameritech, put at risk the future of the U.S. telecommunications industry. Do we want services provided by a large number of robustly competitive firms, or a by a very small number of bloated monopolies?

Let me try to place in context Sprint's concerns here. Sprint is both a customer and a competitor of these companies. Sprint purchases access services in order to serve our own customers. Because they continue to enjoy monopoly control of these essential inputs, these large phone companies can directly affect, favorably or unfavorably, the provision of long distance services. But as troubling as this dependence is in the context of traditional services, it becomes of even greater concern looking forward. The telecommunications industry is undergoing a significant transformation as companies such as Sprint push forward to develop and deploy new technologies. We need the local telephone companies' cooperation in order to bring these new services to U.S. consumers. I am convinced that the ever increasing concentration of market power in the hands of a very few large telephone companies can only prove detrimental to this process.

As the Chairman of Sprint, I speak from first hand experience about consolidations. Indeed, as Sprint's history shows, many mergers can benefit consumers because they can produce new services or greater efficiencies. Allowing already large local telephone companies to merge, however, would result in a massive concentration of market power in a few companies, and consumers will suffer.

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Let me also emphasize my belief that most choices over corporate transactions need not and should not be second guessed by government; for the most part, entrepreneurs can make their own good decisions -- or mistakes -- and the market will reward or punish them. But nevertheless, there remains the minority of instances where consumers are so threatened that government must step in. That time is now.

The merger before you, Bell Atlantic-GTE, and the recently announced transaction between SBC and Ameritech, make all too plain the anticompetitive structure of the United States telephone industry that would result if policymakers sit idle. If allowed, these deals will result in two companies controlling two-thirds of our nation's access lines. They will control 67% of access minutes, and 65% of all local revenues.

When Congress passed the Telecommunications Act of 1996 only two years ago, surely this is not what it intended. Deregulation of the telecommunications industry was not a free ticket to recreate two or three large telephone companies that would dominate and control this critical infrastructure. We have already witnessed the problems created by control of the nation's telephone lines seized in the hands of a few; this country went through significant costs to correct this very flaw as customers and shareholders struggled through the uncertainties and complexities of divestiture in 1984.

**THE SBC/AMERITECH AND BELL ATLANTIC/GTE
MERGERS WILL VEST SUBSTANTIAL CONTROL OF
OUR NATION'S LOCAL INFRASTRUCTURE IN A VERY
FEW HANDS.**

Local phone service remains today a monopoly, notwithstanding Congress' passage of the Telecommunications Act of 1996. GTE and some Regional Bell Operating Companies ("RBOCs") have used every legal ploy to evade their obligations under that Act in order to maintain their local monopolies. The result is far slower development of local phone competition than we had anticipated. Further consolidation on the scale presented by these two mergers could make these circumstances irreversible. The Bell Atlantic-GTE merger would create a single phone company controlling one-third of America's phone lines. The combination of Bell Atlantic (with 21.45 million access lines), NYNEX (18.47 million), and GTE (18.38 million) would leave the new company with more than 58 million access lines, representing 36% of all lines served by the large ("tier one") phone companies.¹ The proposed new SBC-Ameritech entity would control another one third of the access lines in the U.S. The combination of SBC (with 15.53 million access lines), PacTel (17.92 million), SNET (2.23 million) and Ameritech (20.55 million) would leave the new company with more than 56 million access lines, representing 35% of all lines served by the tier one phone companies. Allowing aggregation of large local monopolies to this extent will harm consumers and will further delay the benefits Congress intended in passing the 1996 Act.

**THE MERGERS WILL HAVE SUBSTANTIAL
ANTICOMPETITIVE EFFECTS.**

As a result of rigorous antitrust prosecution in the telecommunications industry in the early 1980s, the provision of local telephone service was disaggregated so that it was spread largely among GTE and seven independent RBOCs. Subsequent consolidation has reduced the number to six and the proposed acquisitions would further reduce the number to four. While the antitrust enforcement agencies and regulators have not thus far challenged this consolidation, the point has been reached where a further consolidation of the scope and character proposed would have dangerous anticompetitive consequences. I will briefly catalog these problems below.

- *The Merger Would Eliminate Substantial Actual and Potential Competition.*

Sprint is a very large purchaser of local telephone access services. Like other long distance companies, we depend critically on local networks in order to reach our customers. Approximately one half of our costs to provide long distance services resides in the control of local phone companies.

Given this, Sprint is vitally interested in seeing local competition develop so that we can have meaningful choices in access suppliers. One avenue of promise for this lies in large phone company entry into other companies' regions, but mergers like these preclude such competition.

Bell Atlantic and GTE, as well as SBC and Ameritech, operate in adjacent geographic areas. Prior to the announcement of the mergers, these companies had undertaken public steps to invade each other's territories. GTE announced in 1997 the creation of a competitive subsidiary to invade BOC service areas, including parts of Bell Atlantic's regions where GTE now serves adjacent areas in Pennsylvania and Virginia. Ameritech has taken concrete steps toward entry into the states within SBC's territory. What was Bell Atlantic's and SBC's response to these competitors? Buy them. We must now insist, as a matter of national policy, that these companies stop retreating from competition and instead work to develop consumer choice in local telephone service.

- *There Are Additional Predictable Anticompetitive Effects from Further Consolidating These Local Monopolies.*

The aggregation of local market monopolies gives these large companies an increased ability and incentive to discriminate against rivals and leverage their local monopolies. Bell Atlantic is currently prohibited from providing interLATA services, but GTE already provides these services. I assume that its proposal to merge with Bell Atlantic provides for the appropriate divestiture of these services in accordance with law, although I fear that some statements made informally by the parties suggest an all too casual (and all too familiar) attitude about the legal constraints and obligations imposed by this Congress upon these companies. Needless to say, any arrangement that would continue to give the merged entity any beneficial interest in forbidden businesses would be illegal. But setting aside the formal requirements of the

law, this merger would undo the very essence of the 1996 Act's decision to forbid interLATA entry by RBOCs prior to opening their local markets.

Absent the protections of the 1996 Act, I fear that the merged entities would expose both local and long distance competitors to predatory conduct. Discrimination is more likely when the monopolist does business in a number of markets; the greater the number of markets, in fact, the greater the ability and incentive to engage in misconduct. The monopolist can establish a reputation for predation in one market with the effect of deterring entry in all markets. And the costs of discrimination undertaken in one market can be spread among many. In other words, for a Bell Atlantic-GTE or a SBC-Ameritech, anticompetitive conduct is just overhead.

The problems multiply when the merged entities provide long distance services. They will have absolute control over the origination and termination of competitors' calls in their regions. While Sprint does not have access to full industry data, we estimate that GTE-Bell Atlantic will terminate approximately 42% of all calls originating in their service areas. And SBC-Ameritech will similarly terminate 45% of calls that they control on the originating end. This leaves long distance carriers highly vulnerable to misconduct for a large percentage of their traffic -- and would give the merged companies an irresistible motive for exploiting this vulnerability. It also leaves long distance companies exposed to the opportunities for the merged firms to engage in anticompetitive price squeezes, particularly so long as access charges remain above costs. We have already witnessed the damage that concentrated control of local markets can reap upon long distance services; we need not, indeed, we cannot afford to relive this experience.

As I noted earlier, the problems extend beyond long distance services and access as provided today. Rather, they risk America's leadership in telecommunications technology tomorrow. New service innovations such as Sprint's Integrated On-Demand Network or ION need new forms of access and cooperation from local telephone companies to help bring these services to the end user. The fewer the number of local phone companies, the less likely we are to see the creativity and cooperation so necessary to our advanced infrastructure.

- *Fewer, larger telephone companies make innovation less likely and make it more difficult for regulators and customers to compare relative performances*

In reviewing the Bell Atlantic/NYNEX transaction, the FCC expressed the concern that "mergers between incumbent LECs will likely reduce experimentation and diversity of viewpoints in the process of opening markets to competition." (152). In a technologically dynamic industry such as telecommunications, rivalry in innovation is extremely important in promoting economic efficiency. While these local monopolies do not directly compete, each provides access services in its own region and their offerings can be compared and contrasted. Private parties use

comparisons among the BOCs/GTE to assess the quality of their performance, especially long distance carriers such as Sprint that must negotiate with these companies for essential inputs. When we negotiate with one BOC today, we often make reference to other terms and conditions being offered by other BOCs and/or GTE in other regions as a means of gaining more congenial access.

This same phenomenon places added burdens on regulators and taxpayers. When the Antitrust Division was forced to file suit to break up the Bell System, the courts found that antitrust enforcement had been all the more burdened because it was so difficult for regulators to effectively regulate the monolithic Bell System. After divestiture, the seven Bell Companies argued vociferously that the existence of seven independent companies meant more effective regulation because regulators could compare one to the others, in terms of price and quality of services. The proposed mergers would of course reduce the number down to four. For these reasons alone, the merger poses substantial anticompetitive risks.

**CLAIMS THAT SIZE OF THIS MAGNITUDE IS
NECESSARY TO COMPETE IN THE FUTURE ARE NOT
SUBSTANTIATED OR CREDIBLE.**

Both proposals make claims that their enormous size is necessary to compete. They tell you they need to consolidate their monopolies in order to be more competitive. Common sense tells you otherwise.

GTE and Bell Atlantic say that their combination will allow an American company to compete in a global market. But many American companies already are among the leading global telecommunications providers without massive telephone monopolies. Also, the parties to the proposed mergers have already independently invested abroad. Why allow one or two merged companies to participate in these markets, when we already have all four of them doing so? They tell you that the future markets will result in only four or five global market players. But even if this were true, why sacrifice the consumer benefits of competitive markets at home? And can it really be correct that we must weaken many U.S. telecommunications firms in order to allow a select one or two to compete globally?

The parties have also told us that this unprecedented scale is necessary for innovation. Here again, common sense and daily observation belies their claim. Innovations come from companies motivated by market pressures, not monopolies. It was Sprint, striving against a dominant AT&T in long distance, that planned and deployed the first all fiber network for American consumers. It was Sprint that fostered the development of ATM networks, now viewed as the key vehicle for the next generation of broadband services. And it is Sprint today that is steadily bringing to market its ION services that will allow consumers useable and useful access to all the services made possible by the new technologies.

SBC and Ameritech have also claimed that their merger will enable them to enter 30 local markets outside their territories.

Skepticism is appropriate in light of their chronic resistance to Congress' fundamental policy of local phone competition. How do these companies expect us to believe that they will be the driving force for local competitive entry, when they have worked so hard to resist it?

Nor is it believable that only a company of this gargantuan size can compete in local telephone markets; there are indeed numerous start-up competitive local phone companies in evidence today.

In the Bell Atlantic/NYNEX merger, policymakers decided to allow a smaller scale merger to go through subject to conditions that supposedly would ameliorate the anticompetitive effects of the transaction. The merger closed a year ago, but the conditions have not been met and thus have been ineffective in prodding Bell Atlantic to open its markets. When SBC sought government approval to buy PacTel, it made a number of promises as well that have not been kept. Let me emphasize to you my ardent belief that the mergers before you, of such greater scope and magnitude than those allowed to date, are not 'fixable' with conditions.

I would ask that you keep sight of one very fundamental fact: The companies whose merger proposals are before you are monopolies. They may insist to you that they are "good" monopolies, contributing monies to their little leagues and other good causes, and I have no quarrel with these self-portraits. But the fact remains, their generosity is irrelevant, for we have as a nation chosen competition as our fundamental economic policy. As Judge Learned Hand observed more than fifty years ago, "possession of unchallenged economic power deadens initiative, discourages thrift and depresses energy; ...immunity from competition is a narcotic, and rivalry a stimulant, to industrial progress; the spur of constant stress is necessary to counteract an inevitable disposition to let well enough alone."². These "good" monopolies do not need to grow bigger, they need to be shaken loose of their monopoly power. A strong message must be delivered to them to refocus energies on opening local markets, not accumulating them.

1. The data are derived from FCC ARMIS figures for the year 1997.

2. United States v. Aluminum Co. of America, 148 F.2d 416 (2d Cir. 1945).

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