

"MA BELL - IF ONLY SHE'D BEEN SOMEONE ELSE'S MOTHER!"

EMPIRE WO/MEN IN TELECOMMUNICATIONS

Remarks of Patricia M. Worthy  
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Sheraton Washington Hotel  
November 30, 1983

WEBSTER DEFINES "PARENT" AS ONE THAT "BEGETS OR BRINGS FORTH OFFSPRING." BUT WE KNOW THAT "PARENTHOOD" ENVISIONS AND REQUIRES MORE THAN A "BRINGING FORTH", IT ENVISIONS A NURTURING FROM INFANCY TO ADULTHOOD AND IT NECESSITATES THE PROVISION OF EDUCATION AND EMOTIONAL SUPPORT. IT CONFERS UPON THE PARENT FULL RESPONSIBILITY FOR THE OFFSPRING'S DEVELOPMENT, GROWTH AND PHYSICAL WELL-BEING. IT IMPLIES A RELATIONSHIP OF HONESTY, LOYALTY, TRUST AND DEVOTION AND IT NECESSITATES PERSONAL SACRIFICE, DEDICATION, DETERMINATION AND GENEROSITY.

THE QUESTION IS WHETHER OR NOT "MA BELL" HAS BEEN A "PARENT" AS WE UNDERSTAND "PARENTHOOD" IN THE QUEST TO EMBRACE COMPETITION. I SUBMIT TO YOU LADIES AND GENTLEMEN THAT AT FIRST BLUSH THE ANSWER IS, UNFORTUNATELY, NO.

ON NOVEMBER 20, 1974, THE JUSTICE DEPARTMENT FILED AN ANTITRUST SUIT AGAINST MA BELL AND THE BELL SYSTEM COMPANIES ALLEGING THAT AT&T HAD MONOPOLIZED THE TELECOMMUNICATIONS INDUSTRY. ON JANUARY 8, 1982, AT&T AND JUSTICE ENTERED INTO WHAT WAS ENTITLED A "MODIFICATION OF FINAL JUDGEMENT" (MFJ). THE DOCUMENT PURPORTED TO BE A MODIFICATION OF THE CONSENT DECREE ENTERED INTO AS THE SETTLEMENT OF AN EARLIER ANTITRUST CASE IN 1956.

THE 1956 CONSENT DECREE WAS ENTERED IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY. THE DEPARTMENT'S SUIT FILED IN 1974 WAS BROUGHT IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

IMMEDIATELY AFTER FILING THE PROPOSED MODIFICATION WITH THE NEW JERSEY COURT, AT&T AND JUSTICE FILED A STIPULATION PURPORTING TO DISMISS THE 1974 ANTITRUST ACTION IN THE DISTRICT OF COLUMBIA. JUDGE HAROLD GREENE, WHO PRESIDED OVER THE CASE SINCE JUNE OF 1978, HAD HEARD SEVERAL MONTHS OF TESTIONY IN THAT TRIAL AND WAS ALMOST

AT THE CLOSE OF THE CASE WHEN THE PARTIES HAD REQUESTED A CONTINUANCE TO WORK OUT A PROPOSED SETTLEMENT. ON JANUARY 12, 1982, JUDGE GREENE HELD A HEARING IN HIS COURT CONCERNING THE PROPOSED MODIFICATION AND THE STIPULATION OF DISMISSAL FILED BY AT&T AND THE JUSTICE DEPARTMENT. JUDGE GREENE MADE IT QUITE CLEAR TO THE PARTIES THAT HE VIEWED THE DOCUMENTS PURPORTING TO BE A MODIFICATION OF THE EARLIER CONSENT DECREE TO BE A SETTLEMENT AGREEMENT IN THE CASE PENDING BEFORE HIM AND THAT AS SUCH, IT WAS GOVERNED BY THE "TUNNEY ACT."

JUDGE GREENE STATED THAT THE TUNNEY ACT-PROVISIONS ARE AN IMPORTANT PART OF THE ANTITRUST LAW AND PARTICULARLY IMPORTANT IN A CASE WITH THIS MAGNITUDE OF THE PUBLIC IMPACT. HE SAID THAT HE WOULD NOT ALLOW THE PROVISIONS OF THAT ACT TO BE CIRCUMVENTED BY WHAT HE PERCEIVED TO BE A PROCEDURAL MANEUVER BY THE PARTIES. BOTH PARTIES PROTESTED GREATLY AND ASSERTED THAT IT WAS THEIR INTENT THAT THE MODIFICATION OF THE CONSENT DECREE WOULD BE SUBJECTED TO TUNNEY ACT "TYPE" PROCEEDINGS. THEY WERE OF THE VIEW, HOWEVER, THAT, WHILE A TUNNEY ACT PROCEEDING WAS DESIRABLE, THE ACT TECHNICALLY DID NOT APPLY TO THIS PARTICULAR SETTLEMENT, BECAUSE IT WAS THE MODIFICATION OF A DECREE AND NOT A NEW DECREE. TRANSCRIPT, U.S. v AT&T, CASE NO. 74-1698 (D.D.C.), JANUARY 12, 1982, pp. 25036-25046.

JUDGE GREENE VACATED THE EARLIER APPROVAL OF THE MODIFICATION AND ORDERED THE PARTIES TO FILE COMMENTS IN COMPLIANCE WITH TUNNEY PROCEEDINGS.

THE AFFECT OF JUDGE GREENE'S ORDER WAS TO ALLOW THE PROPOSED SETTLEMENT AGREEMENT TO BE SCRUTINIZED AND COMMENTED UPON BY ANY INTERESTED PARTIES. MORE IMPORTANTLY, IN MY OPINION, IT SAVED THE FINANCIAL LIVES OF MA BELL'S 22 CHILDREN, THE BELL OPERATING COMPANIES (BOC'S). I MAKE THIS STATEMENT WITHOUT RESERVATION, IN THAT THE

PROPOSED SETTLEMENT AGREEMENT PROVIDED FOR:

- THE SPIN-OFF (FROM AT&T) OF THE 22 OPERATING COMPANIES INTO ONE OR MORE ENTITIES TO BE OWNED BY AT&T'S SHAREHOLDERS;
- THE RETENTION BY AT&T OF ITS LUCRATIVE LONG LINES DEPARTMENT, ITS EXTREMELY VALUABLE BELL LABORATORIES AND ITS PRODUCTIVE MANUFACTURING ARM, WESTERN ELECTRIC;
- THE DIVESTED OPERATING COMPANIES HAVING TO EXPEND MASSIVE SUMS OF MONEY TO PROVIDE (ON A PHASED-IN BASIS) EXCHANGE ACCESS TO ALL LONG-DISTANCE CARRIERS ON AN EQUAL BASIS;
- AT&T (AND NO LONGER THE OPERATING COMPANIES) WITH THE OPPORTUNITY TO PROVIDE INTRASTATE TOLL SERVICE AND THEREFORE NOT RECEIVING THE RESULTING REVENUES FROM THAT SERVICE;
- A PROHIBITION OF THE CONTINUED SALE OR LEASE OF CUSTOMER PREMISES EQUIPMENT (CPE) BY THE OPERATING COMPANIES, TRADITIONALLY A SUBSTANTIAL SOURCE OF REVENUE FOR THE BOCS. BUT MORE INTERESTINGLY, THE TRANSFER OF THIS EQUIPMENT AND ITS RELATED REVENUES TO AT&T;
- A GENERAL PROHIBITION THAT THE OPERATING COMPANIES COULD NOT MANUFACTURE OR PROVIDE ANY TELECOMMUNICATIONS PRODUCTS OR PROVIDE ANY OTHER PRODUCTS OR SERVICE THAT WAS NOT A NATURAL MONOPOLY REGULATED BY TARIFF.
- A PROHIBITION THAT THE OPERATING COMPANIES COULD NOT PRODUCE PUBLISH OR DISTRIBUTE THE WELL KNOWN "YELLOW PAGES", WHICH TRADITIONALLY HAVE GENERATED LARGE SUMS OF REVENUES FOR THE RESPECTIVE BOCS.

- AND AN ADMONISHMENT TO MA BELL'S CHILDREN NOT TO DISCRIMINATE AGAINST HER COMPETITORS IN PURCHASING AND INTERCONNECTING EQUIPMENT.

SURELY THE PROPOSED SETTLEMENT AGREEMENT AND THE PROCESS OF DIVESTITURE AS DESCRIBED THEREIN COULD NOT HAVE BEEN DEEMED BY MA BELL AS BEING THE BEST INTEREST OF HER 22 CHILDREN. IT HAD TO BE CLEAR TO HER THAT SHE WAS NEGLECTING HER PARENTAL RESPONSIBILITIES AS THEY RELATED TO HER OFFSPRING'S DEVELOPMENT, GROWTH AND PHYSICAL WELL-BEING. WHAT OF THE EXPECTATION THAT THE PARENT WILL "NURTURE" THE CHILD UNTIL THE CHILD IS SELF-SUFFICIENT. WHAT OF THE NEED FOR PERSONAL SACRIFICE, DEDICATION AND GENEROSITY.

WE MUST ASSUME, I SUSPECT, THAT MA BELL FELT THAT HER ACTIONS PROVIDED THE SENSITIVITY AND EMOTIONAL SUPPORT THAT PARENTS MUST PROVIDE THEIR FLEDGING YOUNG. BUT MORE THAN SIX HUNDRED COMMENTS WERE RECEIVED BY JUDGE GREENE FROM INTERESTED PARTIES, MANY OF THEM OBJECTING TO VARIOUS ASPECTS OF THE PROPOSAL. JUDGE GREENE, HIMSELF, WAS SOMEWHAT DISTURBED BY MA BELL'S EFFORTS TO EMANCIPATE HER YOUNG. FOR IN HIS AUGUST 11, 1982 DECISION HE MODIFIED THE PROPOSED SETTLEMENT AND ALLOWED THE OPERATING COMPANIES TO RETAIN THE "YELLOW PAGES" AND ITS RELATED REVENUES. HE ALSO ALLOWED THE BOCS TO OFFER NEW CUSTOMER PREMISES EQUIPMENT AND HE ATTEMPTED TO INSURE THE 22 CHILDREN GREATER FINANCIAL SECURITY BY SPECIFYING THAT EACH BOC (EXCEPT PACIFIC TELEPHONE) BE LEFT WITH A DEBT RATIO OF APPROXIMATELY 45 PERCENT. WITH MANY QUESTIONS STILL UNANSWERED HOWEVER, HE STATED THAT GENERALLY THE PROPOSED SETTLEMENT WAS IN THE PUBLIC INTEREST AND THE AGREEMENT, WITH JUDGE GREENE'S REVISIONS, WAS APPROVED AND WE NOW

HAD A NEW CONSENT DECREE BETWEEN AT&T AND THE DEPARTMENT OF JUSTICE THERE WAS STILL, HOWEVER, THE PLAN OF REORGANIZATION, THE ACTUAL DETAILED BLUEPRINT OF THE DIVESTITURE THAT HAD TO BE DEVELOPED AND FILED BY AT&T WITH THE COURT FOR ITS APPROVAL. WHAT OF THE PLIGHT OF HER 22 CHILDREN? WOULD THEY BE INVOLVED IN THE PREPARATION, DESIGN AND DEVELOPMENT OF THE PLAN? JUDGE GREENE DEMONSTRATED THE CONCERN AND CARE OF A GRANDPARENT WHEN HE STATED IN HIS DECISION:"

"THE COURT ACCORDINGLY INTENDS TO REQUIRE THAT, AT THE TIME THE PLAN OF REORGANIZATION IS SUBMITTED TO THE COURT BY THE DEPARTMENT OF JUSTICE, THE DESIGNATED CHIEF EXECUTIVE OFFICERS OF THE (OPERATING COMPANIES) FILE WITH THE COURT SWORN STATEMENTS CERTIFYING THAT, TO THE BEST OF THEIR KNOWLEDGE, THE PLAN WILL LEAVE THE COMPANIES WHICH THEY HEAD AS VIABLE ENTITIES WITH THE RESOURCES NECESSARY TO PERFORM THE FUNCTIONS DESCRIBED IN THE DECREE."

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FOR IT WAS CLEAR TO EVERYONE, THAT THE SUCCESS OF THE DIVESTITURE, THE SUCCESS OF THE ENDEAVOR, DEPENDED DIRECTLY ON THE ECONOMIC VIABILITY AND STRENGTH OF MA BELL'S OFFSPRING. BUT THE QUESTION WAS: WAS IT CLEAR TO MA BELL, THE PARENT?

PURSUANT TO THE COURT'S REQUIREMENT, THE BOC PRESIDENT-DESIGNATE FILED THEIR AFFIDAVITS WITH THE COURT ON DECEMBER 16, 1982, THE DATE MA BELL FILED HER REORGANIZATION PLAN. DID THE OFFSPRING PARTICIPATE IN A MEANINGFUL WAY IN THE DEVELOPMENT AND PREPARATION OF THE MASTER PLAN? WERE THEIR INTERESTS PROTECTED? HAD THE PARENT ACTED IN A MANNER THAT INSURED THE FINANCIAL VIABILITY AND FISCAL WELL BEING OF HER CHILDREN? HAD THERE BEEN HONESTY, LOYALTY, TRUST AND DEVOTION? THE

AFFIDAVITS SUGGESTED THAT THE ANSWERS TO THESE QUESTIONS WERE NO. WALLACE R. BUNN (SOUTHEAST REGION) AT PPS. 2-3 SPECIFIED:

"COMBINED FINANCIAL HEALTH FOR THE OPERATING COMPANIES... WILL BE HEAVILY DEPENDENT ON REGULATORY ACTIONS OF STATE AND FEDERAL AGENCIES. ACCESS CHARGES WILL NOT FULLY RECOVER THE REVENUES LOST THROUGH DIVESTITURE FOR THIS REGION. TO ATTEMPT TO IMPOSE ACCESS CHARGES THAT WOULD RECOVER ALL LOST REVENUES WOULD PROBABLY LEAD TO WIDESPREAD BYPASS OF OPERATING COMPANY FACILITIES. INCREASED LOCAL RATES THEREFORE, WILL BE NECESSARY. MY CERTIFICATION ASSUMES THAT SUCH RATE INCREASES WILL BE PROMPTLY GRANTED."

MR. DOLBERT C. STANLEY PRESIDENT-DESIGNATE FROM THE NORTHEAST REGION STATED THAT HIS STATEMENT SHOULD NOT BE RELIED UPON BY INVESTORS AND THAT HIS OPINION WAS BASED UPON "THE FOLLOWING ASSUMPTIONS:

(A) THAT THE LEVEL OF DEMAND AND GROWTH IN DEMAND FOR EXCHANGE TELECOMMUNICATIONS SERVICE WILL BE COMPARABLE TO THAT EXPERIENCED IN RECENT YEARS." (AT P. 3)

MR. ZANE E. BARNES, PRESIDENT-DESIGNATE OF THE SOUTHWEST REGION, STATED THAT HIS COMPANY WOULD BE VIABLE ONLY IF THE "CONTINGENT LIABILITIES" WERE NOT ASSIGNED AS SET FORTH IN THE PLAN."

IT WAS CLEAR THEREFORE, THAT THIS PLAN OF REORGANIZATION HAD NOT BEEN DEVELOPED WITH AND BY THE OPERATING COMPANIES BUT BY THE PARENT. IT WAS ALSO CLEAR THAT THE FINANCIAL VIABILITY OF THE OFFSPRING HAD NOT BEEN THE PARAMOUNT CONCERN OF THE PARENT. IT WAS EVEN BEGINNING TO BE CLEAR THAT THE WELL BEING OF THE CHILDREN HAD NOT BEEN A DRIVING FORCE BEHIND ANY OF THE ACTIONS OF THE PARENT.

FOR IN READING MA BELL'S PROPOSED PLAN OF REORGANIZATION IT BECAME OBVIOUS THAT WE WERE NO LONGER DISCUSSING THE WELL BEING OF CHILDREN BUT WERE SEEING THE ECONOMIC PROBLEMS ASSOCIATED WITH "ORPHANS."

THE PLAN OF REORGANIZATION WAS 470 PAGES IN LENGTH AND CONTAINS SEVERAL PROPOSALS THAT IMPACTED DIRECTLY ON THE FINANCIAL VIABILITY OF THE OPERATING COMPANIES. WHAT WAS DISTURBING TO THOSE OF US OBSERVING THE PROCESS WAS THE OBVIOUS NEGATIVE IMPLICATIONS OF THESE PROPOSALS. FOR EXAMPLE, MA BELL PROPOSED THE ESTABLISHMENT OF A CENTRAL SERVICE ORGANIZATION THAT WAS TO BE ENTIRELY FUNDED BY THE BOCS, STAFFED WITH THOUSANDS OF FORMER AT&T EMPLOYEES TO PROVIDE SUPPORT FUNCTIONS THAT THE BOCS COULD, IN MY OPINION, HAVE PROVIDED FOR THEMSELVES. THE PLAN FURTHER PROPOSED THAT POTENTIALLY PROFITABLE CELLULAR RADIO BE PROVIDED BY THE REGIONAL HOLDING COMPANIES AND NOT THE OPERATING COMPANIES. AND AFTER THE COURT'S DECISION THAT THE LOSS OF YELLOW PAGE REVENUES WOULD CAUSE AN UNJUSTIFIABLE INCREASE IN LOCAL RATES AND CONSEQUENTLY RULED THAT THE RIGHTS AND REVENUES RELATED TO YELLOW PAGES WERE PROPERLY ASSIGNED TO THE BOCS, THE PLAN PROPOSED REGIONALIZATION OF YELLOW PAGE OPERATIONS THEREBY PRECLUDING THE AVAILABILITY OF DIRECTORY ADVERTISING REVENUES FROM BEING USED BY THE INDIVIDUAL OPERATING COMPANIES. ADDITIONALLY, THE PLAN PROVIDED FOR THE JOINT CONTRIBUTION BY AT&T AND THE BOCS TO JUDGMENTS IN ANTITRUST ACTIONS BROUGHT BY COMPETING MANUFACTURERS OF CUSTOMER PREMISES EQUIPMENT WHICH POTENTIALLY COULD CONSTITUTE MILLIONS OF DOLLARS. REQUIRING CONTRIBUTION BY THE BOCS FOR LIABILITIES ARISING FROM PURELY INTERSTATE ACTIONS, IN MY OPINION, IS REMINISCENT OF



THE ATTITUDE COMMONLY REFERRED TO IN FAIRYTALES AS THE "STEPCHILD SYNDROME."

THE PLAN HAS BEEN APPROVED, THE PROPOSALS OF AT&T CHALLENGED BY THE REGULATORY COMMUNITY WENT, IN MOST PART, UNADDRESSED BY THE COURT AND NOW THE SCENARIO HAS CLEARLY CHANGED. MA BELL, THE PARENT HAS DIVORCED HERSELF, PRIMARILY, FROM ALL FINANCIAL RESPONSIBILITIES RELATING TO HER CHILDREN. INSTEAD OF BEING EMANCIPATED, THE 22 OPERATING COMPANIES FIND THEMSELVES "ORPHANS" IN A NEW VOLATILE AND UNSTABLE ECONOMIC ENVIRONMENT. THEY HAVE BEEN STRIPPED OF REVENUE GENERATING SERVICES AND FORCED TO PROVIDE BASIC TELEPHONE SERVICE IN A HIGHLY COMPETITIVE, TECHNOLOGICALLY ADVANCED, TELECOMMUNICATIONS REVOLUTION. AND WE, THE REGULATORS ARE FORCED BY CIRCUMSTANCES AND DECISIONS RENDERED BY THE FCC AND JUDGE GREENE TO NO LONGER FUNCTION AS A SURROGATE FOR THE MARKET PLACE BUT AS "FOSTER PARENTS" TO THE "STEPCHILDREN" OF THE OLD AT&T. THERE ARE APPROXIMATELY \$6.7 BILLION IN APPLICATIONS FOR HIGHER TELEPHONE RATES NOW PENDING BEFORE STATE PUBLIC SERVICE COMMISSIONS ACROSS THE COUNTRY AND EXPLANATIONS THAT WITHOUT THE TIMELY APPROVAL OF THESE HIGHER RATES BY WE, THE REGULATORS, THE OPERATING COMPANIES WILL BE UNABLE TO SURVIVE.

AS I REFLECT ON THE ENTIRE DIVESTITURE PROCESS, THE FINANCIAL FUTURE OF THE 22 COMPANIES AND THE REALITY THAT UNIVERSAL SERVICE IS CLEARLY NOW IN JEOPARDY, I PONDER MY FOND MEMORIES OF MY MOTHER AND MY CHILDHOOD AND I WONDER, VERY SERIOUSLY, WHETHER WE WOULDN'T ALL HAVE BENEFITTED IF MA BELL HAD BEEN SOMEBODY ELSE'S MOTHER.