Fairfax

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23 December 1999

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Productivity
Commission

Professor Richard Snape
Deputy Chairman
Productivity Commission
LB2 Collins Street East
Melbourne Vic 8003

Dear Professor Snape:

Thank you again for the opportunity to appear before the Commission at its hearings in Sydney on 6 December.

I wanted to amplify a couple of points raised during the hearing:

1. Multiplexing. We simply believe, in assessing the multiplexing option, that providing only one 7 mHz band for datacasting, and then dividing it into three or four channels for use by different datacasters, will not be either commercially viable to Fairfax, as a datacaster, or appealing to consumers, in terms of sustaining their long term viewing interest. Each of our Internet sites is in fact a suite of services and choices that go well beyond any one "channel." The datacasting experience will have to be equally "rich" to be compelling to users. We note that the Cabinet decision announced 21 December did not include multiplexing.

2. The A.T. Kearney study. You will recall that their report looked at the expected benefits of an early release of spectrum used for the analogue simulcast and the cost of accessing digital services. The focus was the opportunity cost of continuing analogue transmission and whether redeployment of that spectrum could produce a net cash benefit from more efficient use of the spectrum.

   Estimations focussed on realisable cash benefits that could be applied most readily to offset actual access costs. Other effects, such as the gain to consumers from the entry of new suppliers and greater efficiency in supply and the benefits of an open access network and increased economic activity, were recognised but not quantified. Implementation risks and consequential costs were similarly noted.

This approach reflected our interest in spectrum utility and assumed the net effect of other impacts would be small.

A.T. Kearney's approach was reviewed by Network Economic Consulting Group (NECG) who had generated similar conclusions with an approach based solely on social costs and benefits. NECG concluded that A.T. Kearney's estimations of benefits from the early release of spectrum were quite conservative.

3. Access to digital broadband. There have been recent developments in the United States regarding measures taken by AT&T to open its digital platforms to rival Internet services and service providers. Some articles on this are attached. We still believe you should assess, in your final report, prospects for such developments here, and whether any changes to existing laws should be undertaken to open up digital capacity whether through broadcasting, cable, satellite and telephone.

I hope this additional information is helpful to you. I am also enclosing for your reference a copy of Fairfax's media release on the Government's digital television and datacasting decisions.

We look forward to the issuance of your final report.

Yours sincerely,

Fred Hilmer

Frederick G. Hilmer

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FAIRFAX STATEMENT ON CABINET'S DECISION ON DIGITAL TELEVISION AND DATACASTING

SYDNEY, December 21, 1999 – Mr Fred Hilmer, Chief Executive of John Fairfax Holdings Limited [ASX:FXJ] today issued the following statement on Cabinet's decision on digital television and datacasting:

"By requiring a standard definition digital signal, the Government has made digital television affordable, and is to be commended. This is therefore a victory for us and other entrants in datacasting. This decision is a win for consumers.

"For Fairfax, we are cautiously optimistic that today's decision gives us adequate scope to create a commercially viable datacasting business.

"With regard to the definition of datacasting, we wanted to secure the ability to provide a different kind of service – not television broadcasting – that is fundamentally interactive and which can provide news, finance, weather, commerce and Internet services. Under this definition, virtually our entire Internet and e-commerce offerings, provided by f2, and supplemented by video, could become datacasting services.

"We still need to study the decision further, and we especially want to see the implementing legislation.

"We believe the Government must consider new mechanisms to achieve a prompt handback of the spectrum used for analogue television. It should do so without delay. We urge a thorough examination of what can be done now to provide universal digital TV access in Australia, enabling the public to recapture and gain immense economic benefits from opening up the spectrum used today for analogue TV. Billions of dollars that can be used for health care and defence and the bush are unnecessarily locked up in the spectrum used for analogue TV. The issue of handing back that spectrum for auction for new telecoms and media services should be on the table as next year's budget is developed. Australia can go much further, much quicker, in this regard."

-- ENDS --

For further information, please contact:
Bruce Wolpe, Corporate Affairs - Tel: (02) 9282 3640

Note to editors
John Fairfax Holdings [ASX:FXJ] is Australia's leading publishing group. Its mastheads include *The Sydney Morning Herald, The Australian Financial Review, The Age, The Sun-Herald*, and *BRW*. In addition, the Company publishes financial and consumer magazines, and provides online and interactive services. In 1999, the Company had revenues of over $1.1 billion. Fairfax, through f2 Limited, its wholly owned subsidiary for its online and interactive businesses, is Australia's leading content provider on the Internet, with more than 1.4 million page views, per day across a network of sites including news, business and finance, sport, auctions, real estate, employment, IT, career, and city guides and directories.

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AT&T to Open Door to Net Rivals

By Peter S. Goodman
Washington Post Staff Writer
Sunday, December 5, 1999; Page A1

NEW YORK, Dec. 4 -- AT&T Corp. has formally agreed to eventually allow rival Internet services to use its cable lines to provide high-speed computer connections, knowledgeable sources said last night.

AT&T's new policy is aimed at defusing a high-stakes controversy over who controls access to the next generation of the Internet, or "broadband." Ever since it purchased Tele-Communications Inc., the nation's largest collection of cable systems, and declared it would honor an agreement requiring that its customers buy high-speed Internet access from its exclusive provider, the company has been under fire in the courts and in several municipalities.

But AT&T has now struck an agreement in principle with MindSpring Enterprises Inc., the nation's second-largest Internet service provider, formally committing itself to a new "open access" policy, sources said. The two companies plan to send a letter on Monday detailing the agreement to Federal Communications Commission Chairman William E. Kennard. AT&T plans to highlight the new policy at a meeting the same day with hundreds of Wall Street analysts, the sources said.

The agreement will gain the signature of Kenneth Fellman, chairman of an FCC advisory board that represents local governments, sources said. The signatories have been holding talks steadily since July at Kennard's urging.

Rival Internet providers and consumer advocates last night acknowledged the deal as a step in the right direction, one that would limit AT&T's ability to control traffic over the global computer system. But some stressed it is no more than a concurrence between two companies and provides no assurance that all providers will be able to reach their customers through AT&T's network. AT&T's most powerful adversary, America Online Inc., the nation's largest Internet provider, is not a party to the deal, and was not included in the talks. Officials there declined to comment last night.

"It's a good thing as far as an example goes, but the fact they've done a deal with MindSpring doesn't solve the underlying issue: AT&T wants control of the customer," said Barbara Dooley, president of the U.S. Internet Service Provider Association, which represents about 1,000 companies.

Though the letter does not amount to a binding business contract, it proclaims agreement on the principles of open access that should prevail in contracts to come. A cable industry official said the deal was aimed at dissuading regulators from wading into the issue, while pressuring AOL to "come negotiate. Get your own deal. Don't go crying to the government."

"It sends the message that the industry can work this issue out," another source said. "We don't need the regulators getting involved."

But one party to the talks, consumer advocate Andrew Schwartzman, president of the Media Access Project, will not sign the agreement, maintaining that AT&T has not gone far enough to ensure it won't impede its rivals.

"What they're trying to do is very much a step in the right direction," Schwartzman said last night, "but it isn't open access."

Open access has become a pivotal issue within the technology world ever since AT&T bet its future on cable, spending $120 billion. It plans to upgrade its cable wires into conduits for high-speed Internet connections, telephone service and video entertainment.

AT&T's largest cable purchase, Tele-Communications Inc., carries with it a contract requiring that all high-speed customers connect to the Internet via Excite At Home, which manages AT&T's data network and oversees a popular Internet page with links to myriad destinations. AT&T has long pledged that it will honor that contract through its expiration at the end of 2002.

That position has brought AT&T no end of grief. Consumer advocates maintain that AT&T could use its exclusive arrangement to undermine the free-flowing ethic of the Internet, funneling traffic to preferred customers while discouraging traffic elsewhere. They say that would end the days when anyone with an idea and a modem can compete with the biggest brand names.

But AT&T says that's rhetoric. One of the most fervent proponents of open access is AOL. As AT&T portrays it, AOL is motivated not by principle, but by basic economics: It wants a free ride to customers on AT&T's cable systems. The two companies have long discussed an arrangement that would allow AOL to sell its service over AT&T's wires but have stalled on two key matters: price, and who controls the relationship with the customer, sources said.

The city of Portland, Ore., adopted rules forcing AT&T to allow rival Internet service providers to connect with customers over its cable wires. AT&T filed suit. After a preliminary ruling for the city, the two parties await a ruling from the 9th U.S. Circuit Court of Appeals.

But Kennard and the FCC have declined to step in, asserting that cable Internet service is a nascent industry, one no one yet dominates. Regulating now might discourage the investment crucial to upgrading the systems and giving consumers faster connections, Kennard argues.

AT&T has already said it plans to allow open access once the Excite At Home contract expires, though never so formally as now.

Schwartzman said he walked out of the talks that led to the agreement two weeks ago after AT&T refused to include language specifically promising not to discriminate against Internet content providers, and refused to budge on the question of who would control the billing relationship with the customer.

"They insist on controlling the relationship with the customer," Schwartzman said.

But a source with knowledge of AT&T's plans said the company's open access agreement does in fact provide flexibility on both scores. "Everyone is going to be offered similar terms and conditions," the source said, adding that Internet providers will be able to bill customers directly for the services they provide.

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December 6, 1999

AT&T Plans to Allow Rivals Access to High-Speed Lines

An INTERACTIVE JOURNAL News Roundup

AT&T Corp. sought to defuse a simmering battle in cyberspace by announcing it has agreed to a series of principles under which it will open its high-speed networks to other Internet-service providers.

AT&T and MindSpring Enterprises Inc. sent a letter to the U.S. Federal Communications Commission Monday in which AT&T agreed to allow rival companies to deliver high-speed Internet access over its cable lines. The letter stipulated that AT&T will allow open access when its current exclusive contracts expire. AT&T's contract with Internet-service provider Excite At Home Corp. runs until mid-2002. If its anticipated merger with MediaOne Group Inc. closes, AT&T will also postpone open access until MediaOne's arrangement with Time Warner Inc.'s Road Runner expires.

Separately, AT&T said it plans an initial public offering for part of its hot wireless business. The remaining portion of shares of the tracking stock will be distributed to AT&T shareholders (see article).

Pressure From FCC

The Basking Ridge, N.J., telecom giant turned cable-TV titan's push to resolve its so-called open-access problem was initiated by FCC Chairman William Kennard, people close to the situation said. Currently, AT&T cable customers who want to purchase Internet service from America Online Inc. or another Internet-service provider must pay a fee in addition to their monthly bill from Excite At Home.

The "template" was agreed on after negotiations with MindSpring and others and is intended to show AT&T is committed to offering open access to all Internet-service providers, including AOL. But the accord likely won't put the issue to rest.

News of the agreement helped shares of MindSpring climb \$3.625, or 11%, to \$35.9375, on the Nasdaq Stock Market Monday. Shares of AT&T, meanwhile, advanced 87.5 cents to \$57.875 on the New York Stock Exchange.

But even MindSpring isn't satisfied with the concessions offered so far. Delaying open access until after exclusive contracts

AT&T Deal Aims to Improve Quality of Wireless Service end is "our biggest single disagreement" with AT&T over the policy outlined in the letter, MindSpring Chairman and Chief Executive Charles Brewer said Monday.

Will Star Analyst's Upgrade of AT&T Stock Benefit Salomon in New Underwriting Deals?

* * *

Former AT&T Aide Hindery Takes Job at Global Crossing

MindSpring plans to challenge AT&T's time frame in hopes that the FCC will step in and force it to offer open access before its exclusive contracts expire, Mr. Brewer said.

"That's the one thing that we just plain think is wrong," he said, but added that other elements in the letter "contain devils of their own."

MindSpring will also try to work out a private agreement with AT&T to accelerate the implementation of its open-access policy, Mr. Brewer said. In addition to private talks, he said MindSpring will pursue options "on the public-policy side -- everything from the FCC, courts, legislation, you name it."

The policy outlined in the letter "is not a commercial agreement between the two of us" and "would not apply only to MindSpring," Mr. Brewer said.

Analyst Tom Morabito of Scott & Stringfellow Inc. said he expects "a lot of 'me-too' agreements" as other Internet-service providers push to make their access available on AT&T cable lines.

Through its cable unit Tele-Communications Inc., AT&T owns 26% of Excite At Home's stock. Excite At Home is under an exclusive agreement to provide high-speed Internet access over AT&T's cable lines.

Bad News for Excite?

Mr. Morabito said he thinks AT&T's agreement is good news for all Internet-service providers -- except Excite At Home.

"It seems [Excite At Home] will be left out in the cold," once its contract with AT&T expires, he said.

On Monday, Excite At Home applauded the letter drafted by AT&T and MindSpring and professed to be neither surprised nor afraid by the announcement.

"Number one, we were very involved in this discussion between MindSpring and AT&T," Excite At Home co-founder and Chief Technology Officer Milo Medin said in an interview with CNBC Monday. "I personally spent a fair amount of time in Washington and on conference calls working through what the kinds of things it would take to make this happen in 2002."

"This is basically just an agreement and sort of principles that would be used to negotiate a deal -- there's no surprise here," he added. "It's just a letter that talks about what people agree on with regards to what open access means."

In a statement, the openNET Coalition said it welcomed AT&T's announcement "in principle," but added that "there are still a number of serious questions that the investment community, the Federal Communications Commission and others must ask in order to ensure that this a real step forward."

"Without persuasive answers to these questions, this is just a speech, not a change of policy," the group said in a statement. The group, which includes the likes of AOL and the Baby Bells, has launched its own lobbying effort to promote open access.

December 7, 1999

AT&T's Plan to Open Cable Lines To Rivals Draws a Mixed Reaction

By KARA SWISHER, KATHY CHEN and NICK WINGFIELD
Staff Reporters of THE WALL STREET JOURNAL

AT&T Corp.'s plan to open its high-speed network to another Internet-service provider met with approval from the government but criticism from others about both its motives and the time it will take to implement the deal.

AT&T and MindSpring Enterprises Inc., one of the nation's largest Internet providers, Monday sent a letter to Federal Communications Chairman William Kennard, outlining a "template" the companies created that would let consumers who access the Internet over AT&T's cable-television lines choose companies like MindSpring as their Internet provider -- but not until after 2002. Today those services are exclusively provided by Excite At Home Corp., the Redwood City, Calif., Internet company in which AT&T holds a major stake.

Former AT&T Aide Hindery Takes Job at Global Crossing

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AT&T Deal Aims to Improve Quality of Wireless Service (Dec. 6)

Will Star Analyst's Upgrade of AT&T Stock Benefit Salomon in New Underwriting Deals? (Dec. 6)

Rivals and consumer groups have claimed that the exclusive distribution arrangement is unfair and anticompetitive. While AT&T has been backed by federal regulators, who have said they aren't inclined to force open access, the company is trying to stay in the good graces of the government, which must approve its pending acquisition of MediaOne Group Inc., a big Denver cable company.

Federal regulators reacted positively. "Today's agreement is a good first step toward providing consumers with a choice of Internet service providers without paying twice," said Mr. Kennard, who also reiterated his stance that government regulation now would slow down broadband, or high-speed access, deployment. "I encourage the stakeholders to continue to develop market-driven solutions to serve consumer needs."

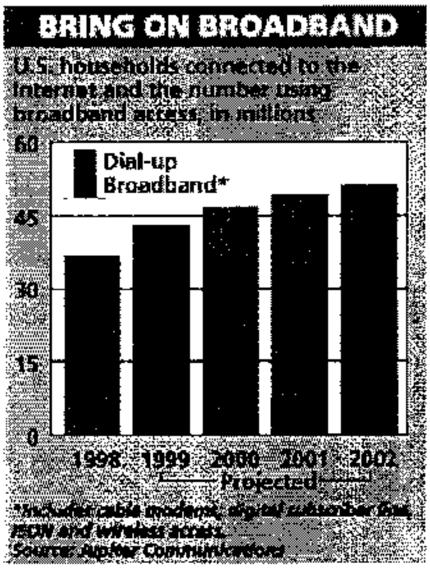
But consumer groups took a more jaundiced view. "This is the minimum in voluntary concessions they have to make to get regulators off their back," said Mark Cooper, director of research for Consumer Federation of America, who noted that AT&T didn't address fundamental issues of discrimination in the template or commit in the statement to allowing customers to buy separate Internet, telephone and cable services.

"Nothing is binding here, because there's no public policy," he said.

America Online Inc., the nation's largest ISP and also AT&T's most vocal critic on the issue, was more guarded in its reaction. "We think this is a positive step ... [that] AT&T now concurs that open access is good for consumers," said George Vradenburg, senior vice president for global and strategic policy. But "the devil is in the details, and we haven't seen all the details."

Another Letter

One original participant in the creation of the AT&T-MindSpring understanding said he dropped out because of the lack of those details. In another letter to Mr. Kennard Monday, Andy Schwartzman -- president of Media Access Project, a consumer advocacy group -- wrote that he thought that AT&T is "hiding" behind an exclusive contract to delay introduction of open access. While the template was a "step in the right direction,' he said, "it falls far short of open access."



AT&T's chairman and chief executive officer, C. Michael Armstrong, underscored that the company intends to live up to its contract with Excite At Home, despite the complaints from consumer groups and others. "That contract has a considerable amount of value. To redo that, someone would have to pay for that value," he told reporters at AT&T's analyst conference Monday in New York. The consumer groups' "frustration is that they wish the contract did not exist."

Mr. Armstrong said he had been in touch with other cable companies about the deal with MindSpring. "They understand that AT&T is not setting industry policy," he said.

Excite At Home's president, George Bell, said his company has been in active talks with AT&T about what will happen after its exclusive deal expires. But he noted that his company is already growing fast -- it also announced Monday that it reached the one million-subscriber mark for its high-speed services -- and intends to become stronger over the next two years.

"We have long said that we have expected more providers on the system, so this is not anything new," said Mr. Bell. "But this understanding is a step to move it away from a politically charged situation to a situation where businesses can work out the best ways to go about making this happen to improve the experience of consumers."

In Nasdaq Stock Market trading at 4 p.m. Monday, Excite stock was down $3.0625, or 5.9%, at $49.

One obvious beneficiary of the deal is Atlanta-based MindSpring, which broke away from AOL and others in the industry to strike the deal with AT&T. MindSpring said discussions began in August, after Mr. Kennard approached MindSpring, AT&T and a handful of others and suggested they hammer out their own principles for an open-access agreement.

'A Big Step'

"This is a big step in the right direction," said David N. Baker, vice president, legal and regulatory affairs for MindSpring, which will have more than three million subscribers after it completes its pending merger with EarthLink Network Inc. of Pasadena. But he added, "This is not something done just for MindSpring's benefit. It is something we did on behalf of the whole ISP industry and all consumers."

That remains to be seen, said Bill Whyman, an analyst at Legg Mason Precursor Group in Washington, D.C., who noted that AT&T's decision to work with MindSpring also was telling. Rather than work first with AOL, the most powerful force in the Internet-access business with close to 20 million members, AT&T chose to negotiate with a much smaller company.

Scott Cleland, another analyst at Legg Mason Precursor Group, characterized the initial agreement between MindSpring and AT&T as the "easy 10%" of the open access issue. "The tough 90% hasn't been addressed," he said.

MindSpring stock jumped 11% Monday, closing at $36, up $3.6875, in Nasdaq Stock Market trading.

-- Rebecca Blumenstein and Andrea Petersen contributed to this article.

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