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STATUS OF THE JUSTICE DEPARTMENT/AMERICAN TELEPHONE AND TELEGRAPH COMPANY  
ANTITRUST SETTLEMENT: A BRIEF OVERVIEW

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STATUS OF THE JUSTICE DEPARTMENT/AMERICAN TELEPHONE AND TELEGRAPH COMPANY  
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I. BACKGROUND INFORMATION

On November 20, 1974, the Justice Department instituted an antitrust action against the parent organization, American Telephone and Telegraph Co. (AT&T), its wholly owned manufacturing subsidiary, Western Electric, and Bell Laboratories, the jointly owned research and development arm, charging the defendants with using their monopoly position to inhibit competitors in the telecommunications market. Divestiture of the existing components of AT&T was sought on the basis that it remains the best way to assure that the company cannot use revenues from its monopoly services to subsidize advanced communications services in the competitive marketplace, or use its monopoly control over the communications network to hinder competitive access.

A proposed negotiated settlement, however, was reached between the two parties on January 8, 1982. Although still subject to clarification, the basic terms of this initial settlement required the divestiture of the local exchange services and access functions of the 22 Bell operating companies, while permitting the entrance of the remaining AT&T network into unregulated markets. The newly divested local operating companies were restricted to providing only regulated monopoly telecommunications services, with the interexchange (long distance) functions and unregulated activities, such as the sale of customer premises equipment and the publishing of Yellow Pages directories, reverting back

to the remaining AT&T network. 1/ To ensure equal access and equipment procurement to all competitors, the newly formed local operating companies were also subject to additional behavioral requirements. 2/

## II. MODIFICATIONS INCORPORATED INTO THE PROPOSED JANUARY 8, 1982, SETTLEMENT

Although the two parties reached agreement on a settlement, termination of the antitrust suit was dependent on approval of the settlement's terms by U.S. District Court Judge Harold Greene. 3/ Judge Greene did not have the power to modify the terms of the settlement, but was required either to accept or reject it based on its provisions. After an examination of the testimony presented during lengthy oral and written comment periods, however, Judge Greene stated in an August 11, 1982, opinion that he would only approve the settlement if the parties were willing to modify its contents to incorporate selected concerns. 4/ Although Judge Greene approved of the proposed settlement's basic framework, that is, the divestiture of the local operating companies and the entrance of AT&T into unregulated markets, he required the incorporation of 10 modifications before he would approve the settlement. These modifications which Judge Greene felt would

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1/ Modifications to the January 8 proposed settlement which among other provisions enable the local operating companies to provide customer premises equipment and publish Yellow Pages, as well as limit AT&T's entry into "electronic publishing," were incorporated into the final settlement. See p. 3, 4 for a listing of specific provisions which modified the terms of the January settlement.

2/ For a more detailed analysis of the provisions contained in the January 8, 1982, proposed settlement, see: U.S. Library of Congress. Congressional Research Service. Proposals for the Revision of the Communications Act of 1934: Telecommunications Issues [by] Angele A. Gilroy. Issue Brief 81150, continuously updated.

3/ Parties in the settlement agreed to follow procedures set forth in the 1974 Tunney Act (P.L. 93-528) which required the publishing of a competitive impact statement, a public comment period, and a judicial determination that the settlement is in the public interest.

4/ For a copy of Judge Greene's August 11, 1982, opinion, see: United States v. Am. Telephone and Telegraph Co., et al., 43 Antitrust & Trade Reg. Rep. (BNA), No. 1077, S-1 (D.D.C. Aug. 11, 1982).

resolve public interest deficiencies contained in the initial settlement would:

- a. Permit the divested local operating companies to provide, but not manufacture customer premises equipment.
- b. Grant the divested local operating companies the right to produce, publish, and distribute "Yellow Pages" directories and transfer to the operating companies all necessary facilities, information, and personnel to provide this service.
- c. Remove present restrictions on the divested local operating companies regarding the provision of interexchange service and equipment manufacturing if the operating company can prove to the court that "there is no substantial possibility" that its local monopoly power could be used to impede competition in the market it wishes to enter.
- d. Prohibit AT&T from offering "electronic publishing" services over its own transmission facilities for a minimum of seven years. <sup>5/</sup> AT&T, however, is permitted to provide electronic directory information as well as time and weather in areas in which, as of January 8, 1982, it was already engaged in the provision of such services.
- e. Require any divested local operating company which is providing billing services for AT&T's interexchange services to notify customers on their interexchange bill that such a service is not connected to their exchange (local) service and may be provided by other companies.
- f. Require any divested local operating company to charge tariffs for exchange access which reflect the quality of the service provided. That is, if access that is less than equal in type and quality to that given to AT&T is provided to other interexchange carriers, the price charged for such access should be proportionately discounted.
- g. Transfer from AT&T to the divested local operating company any joint facilities or other assets which are predominantly used by the divested operating companies. (The court, upon petition, may grant an exception to this requirement.)
- h. Require that at the time of divestiture the local operating companies have debt ratios of approximately 45 percent <sup>6/</sup> and the quality of

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<sup>5/</sup> As defined in Part VIII, p. S-94, of Judge Greene's August 11, 1982, opinion, "electronic publishing" means "the provision of any information which AT&T or its affiliates has, or has caused to be, originated, authored, compiled, collected, or edited, or in which it has a direct or indirect financial or proprietary interest, and which is disseminated to an unaffiliated person through some electronic means."

<sup>6/</sup> Pacific Telephone and Telegraph Co., one of the 22 local operating companies facing divestiture will have a debt ratio requirement of 50 percent due to its present less favorable economic condition.

the debt be representative of AT&T's debt. (The court, upon petition, may grant an exception to this requirement.)

- i. Grant the court the power to issue orders for the implementation, enforcement of compliance, and punishment of violations of the decree.
- j. Prohibit the implementation of the reorganization plan for divestiture until court approval is granted.

Despite Judge Greene's rejection of the Justice Department's request to limit the divested local operating companies solely to the provision of "residential and single-line business customer premises equipment," 7/ both parties agreed to Judge Greene's modifications. Once these modifications were incorporated into a newly filed settlement, Judge Greene's approval quickly followed (August 24, 1982), thereby dismissing the antitrust suit.

### III. FUTURE PROCEDURAL STEPS BEFORE DIVESTITURE

The next procedural step in the implementation of the settlement is the presentation, within six months, of AT&T's plan detailing the divestiture process. This plan, which first requires both Justice Department and judicial approval, must then be carried out within 12 months.

Although AT&T has not formally submitted a divestiture plan, on February 19, 1982, it did reveal a tentative "planning model" for divestiture that would group the local operating companies into seven independent, regional corporations each having its own stock, chief executive officer, and board. This plan calls for a three-level structure where existing service areas will remain intact keeping their current name, holding groups will oversee the regional groups, and a central organization will coordinate national defense and possibly other undisclosed

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7/ For a copy of the Justice Department's memorandum in response to Judge Greene's opinion of August 11, 1982, see: Daily Report for Executives (BNA), No. 161, August 19, 1982. p. B1.



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functions. While the seven regional divisions were designated by a task force which included four local operating company presidents, the parent corporation was responsible for the appointment of each region's chief operating officer.

AT&T would like to have the divestiture completed by January 1984. Judge Greene's decision to hold hearings and seek third-party comments on the divestiture plan, however, will most likely delay AT&T's divestiture target date.