



briefs, and why those issues cannot be adequately briefed in the specified word limitations. Otherwise, any party could seek an extension to the Commission's word limitations for briefs simply by making a general assertion about the complexity of the issues in the case at issue.

Respondent's Expedited Motion states that if it is bound in its Appeal Brief to the 18,750 word limitation prescribed by Commission Rule 3.52(b)(2), it will have to omit "important arguments necessary for its defense and will so limit its discussion of other complex, nuanced and novel issues raised on this appeal as to interfere with their clarity and completeness." Expedited Motion at 2. Respondent contends that these arguments and issues include (1) whether the merger at issue produced "substantial, verified pro-competitive effects arising from improved quality of care," and if so, whether any such improvements were merger specific; (2) whether the merger produced improvements "in other areas;" (3) whether, and if so to what extent, the merger affected prices, as reflected in "complex pricing analyses and internal documentary evidence;" (4) the contours of relevant markets, and the manner in which they should be defined; and (5) whether, and if so to what extent, the merger produced unilateral anticompetitive effects. Expedited Motion at 5-7.<sup>1</sup>

The Commission expresses no opinion as to the substantive relevance or merit of any of the arguments or issues identified by Respondent with respect to the ultimate resolution of Respondent's appeal. The Commission has determined, however, that Respondent's contentions about the complexity of the issues before the Commission, combined with the substantial size of the record in this matter, are sufficiently specific and well-founded to warrant extending the word limitation for Respondent's opening brief by the requested 28 percent amount.<sup>2</sup> Therefore, the Commission grants the Expedited Motion, and also enlarges by the same percentage amount the word limitations for the other three briefs that may be filed by the parties in this appeal.

Accordingly,

**IT IS ORDERED THAT** Respondent's Appeal Brief shall not exceed 24,000 words in length.;

**IT IS FURTHER ORDERED THAT** if Complaint Counsel perfects its Cross-Appeal, Complaint Counsel's Answering and Cross-Appeal Brief shall not exceed 33,600 words in length;<sup>3</sup>

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<sup>1</sup> Respondent advises that Complaint Counsel takes no position on the relief requested in Respondent's motion. Expedited Motion at 2.

<sup>2</sup> See *In the Matter of Rambus, Incorporated*, Docket No. 9302, Order Granting Extensions of Time To File Appellate Briefs and Increases in Word Count Limits (March 18, 2005), at 2.

<sup>3</sup> For purposes of this Order, Complaint Counsel's Cross-Appeal will be deemed to have been perfected if its Answering and Cross-Appeal Brief contains "its arguments as to any

**IT IS FURTHER ORDERED THAT** Respondent's Reply and Answering Brief shall not exceed 24,000 words in length.;

**IT IS FURTHER ORDERED THAT** Complaint Counsel's Rebuttal Brief shall not exceed 14,400 words in length.; and

**IT IS FURTHER ORDERED THAT** all of the foregoing Briefs shall in all other respects conform to the requirements of Commission Rule 3.52, 16 C.F.R. § 3.52.

By the Commission.

Donald S. Clark  
Secretary

ISSUED: December 8, 2005

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issues [Complaint Counsel] is raising on cross-appeal . . ." Commission Rule 3.52(c), 16 C.F.R. § 3.52(c). If Complaint Counsel do not perfect their cross-appeal, then their Answering Brief shall not exceed 24,000 words in length. *Id.*