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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Part 61 of the ) RM-7967  
Commission's Rules to Require ) AAD 92-39  
Quality of Service Standards in )  
Local Exchange Carrier Tariffs )

COMMENTS OF THE INFORMATION  
TECHNOLOGY ASSOCIATION OF AMERICA

The Information Technology Association of America ("ITAA"), formerly known as ADAPSO, hereby submits the following comments in support of the Joint Petition for Rulemaking ("Joint Petition") filed by the International Communications Association and the Consumer Federation of America on April 6, 1992.<sup>1</sup>

I. INTRODUCTION AND STATEMENT OF INTEREST

As the principal trade association of the computer software and services industry, ITAA shares many of the concerns raised by the Joint Petition. The availability of high quality communications service is critical to ITAA's member companies, which rely on the communications services provided by local exchange carriers ("LECs") to deliver their enhanced services to their customers. Simply stated,

1/ Amendment of Part 61 of the Commission's Rules to Require Quality of Service Standards in Local Exchange Carrier Tariffs, Joint Petition for Rulemaking (filed Apr. 6, 1992) [hereinafter cited as "Joint Petition"]; see Public Notice, DA 92-634 (released May 21, 1992).

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high quality communications services are an essential component of high quality enhanced services.

In an economy which is becoming increasingly dependent on the fast and reliable movement and management of information, a degradation in the quality of an LEC's communications services has a "ripple effect" which should not be underestimated. Because enhanced services have become so critical to the U.S. economy, poor quality communications services adversely impact not only an LEC's immediate subscribers (i.e., enhanced service providers), but also the customers of those subscribers. There is thus a readily identifiable public interest in creating incentives for the LECs to maintain high quality service standards. The Commission can further this public interest by initiating the rulemaking requested by the Joint Petition.

II. USERS WILL BENEFIT FROM PROPERLY FORMULATED  
TARIFF REQUIREMENTS FOR SERVICE QUALITY  
STANDARDS.

In the highly competitive marketplace in which ITAA's members operate, market forces create an incentive for enhanced service vendors to provide high quality service, and to enter into agreements warranting the quality -- and specifying the parameters -- of the services which they provide. As the Joint Petition correctly observes, the monopoly character of the LECs' basic communications services -- together with the liability-limiting tariffs pursuant to which these services are provided -- insulate

the LECs from these marketplace forces.<sup>2</sup> The Commission should therefore focus its efforts, as the Joint Petition suggests, on replicating the pro-consumer incentives which have heretofore failed to materialize because of the absence of competitive pressures on the LECs. This does not mean that the Commission should establish service quality standards for the LECs; it does mean, however, that the LECs should be required to establish and include in their tariffs their own service quality standards.

ITAA thus endorses the primary goal and fundamental premise of the Joint Petition, namely, that "users should have the right to know what they are buying when they acquire tariffed LEC services."<sup>3</sup> Such information is essential for the proper functioning of any market, whether it is regulated or unregulated. This information, which should come from the carriers themselves, will also help the Commission evaluate the LECs' performance under price cap regulation.<sup>4</sup>

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2/ Joint Petition at 7.

3/ Id. at 6.

4/ In this regard, ITAA wishes to make clear that requiring the carriers to include quality of service standards in their tariffs would not obligate the LECs to offer their customers additional service warranties. ITAA does not believe that the inclusion of these standards would not alter existing tariff terms relating to the carriers' liability for service outages or consequential damages.

Although ITAA believes that the Commission need not and should not engage in standards-setting -- and the Joint Petition does not call for such activity -- the Commission should carefully articulate the requirement it is imposing on the LECs. More specifically, the LECs should be directed to include in their tariffs standards that reflect service quality standards for individual services and facilities, not for their overall network. In the private line context, this means that standards should be presented on an individual circuit basis, not on the basis of network averages. Similarly, the Commission should prohibit the carriers from adopting service quality standards which are at extreme variance with the LECs' internal standards, as evidenced by their recent filings with Congress.<sup>5</sup> Once a tariff requirement is in place, "benchmarking" between carriers and other incentives will help ensure that the LECs establish and maintain meaningful quality of service standards.<sup>6</sup>

III. THE COMMISSION SHOULD INITIATE A RULEMAKING TO FORMULATE TARIFF REQUIREMENTS FOR SERVICE QUALITY STANDARDS.

From a procedural standpoint, the Joint Petition offers good cause for a new rulemaking: the disclosure by

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5/ See id. at 16-17.

6/ Id. at 17 & n.22.

many of the LECs subject to price cap regulation of their own internal service quality standards.<sup>7</sup> One focus of the rulemaking requested by the Joint Petition should be how these internal standards should be reflected in tariffed terms and conditions. The Commission should seek comment from interested parties as to which parameters and measurements of service quality will be the most useful to users, yet minimize the burdens imposed on the LECs.

Another important issue that should be addressed is whether the LECs subject to price cap regulation have a legal obligation to describe in their tariffs the quality of service which they provide. The Joint Petition notes that these carriers have an incentive to allow service quality to deteriorate, and that the omission of essential terms and conditions relating to service quality may, in such circumstances, constitute an "unreasonable practice" under Section 201(b) of the Act.<sup>8</sup> ITAA is inclined to agree with this preliminary analysis, and believes that the Commission should seek comment on this issue.

A properly focused rulemaking, framed in the manner suggested by the Joint Petition, would serve the public interest by replicating market forces and causing the LECs to include in their tariffs quality of service standards that meet the needs of users, while minimizing

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<sup>7/</sup> See id. at 2.

<sup>8/</sup> Id. at 8 n.7.

the burdens imposed upon the LECs and the Commission. ITAA therefore urges the Commission to commence such a proceeding.

IV. CONCLUSION

For the reasons set forth above, the Commission should grant the Joint Petition filed by the International Communications Association and the Consumer Federation of America and initiate a proceeding for the purpose of amending its rules so as to require the LECs to include quality of service standards in their interstate tariffs.

Respectfully submitted,

INFORMATION TECHNOLOGY  
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