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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Price Cap Performance Review) CC Docket No. 92-134
for AT&T)

REPLY COMMENTS OF THE
INDEPENDENT DATA COMMUNICATIONS
MANUFACTURERS ASSOCIATION, INC.

The Independent Data Communications Manufacturers Association, Inc. ("IDCMA"), by its attorneys, hereby replies to the comments filed in response to the Commission's Notice of Inquiry ("NOI") in this docket.¹ This inquiry examines price cap regulation of the American Telephone and Telegraph Company ("AT&T") and AT&T's performance under price cap regulation.

Only a few comments were filed in response to the Commission's NOI. Not surprisingly, AT&T has staked out an uncompromising position, demanding that the Commission remove all remaining price cap regulation. As a "transitional" measure, AT&T requests that the Commission "eliminate counterproductive and unnecessary requirements"

1 Price Cap Performance Review for AT&T, CC Docket No. 92-134, FCC 92-257 (released July 17, 1992).

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such as price cap regulation of new services and tariff notice requirements.²

IDCMA hopes that the Commission will take a thoughtful view of the need for regulation of AT&T. The NOI and the record created thus far in this proceeding have focussed on only one set of issues relevant to this question: AT&T's adherence to the price cap formulae created in CC Docket No. 87-313, as well as certain gross economic measures of performance and productivity. It would be truly surprising if AT&T had not conformed to the letter of the price cap rules (after exploiting every loophole),³ or if AT&T could demonstrate any hardship due to the price cap regime. All things considered, price cap regulation has been a good deal for AT&T.

AT&T's actual behavior in the marketplace, its retention of considerable market power, its ability to discriminate among its numerous customers, its ability to overcharge some customers for some services and undercut competitors to retain market share for other services, and its ability to fashion regulated services selectively so as

2 Comments of AT&T, CC Docket No. 92-132, at iii-iv (filed Sept. 4, 1992).

3 See, e.g., American Telephone and Telegraph Co. v. FCC, No. 91-1178, slip op. (D.C. Cir., Sept. 8, 1992) (reversing Commission reconsideration decision and allowing AT&T to utilize promotional rates (i.e., short term price reductions) in the calculation of its price cap indices, thus easing compliance by factoring limited offsets for price increases).

to complement its joint marketing of unregulated products and services -- all of these factors appear to be outside the original scope of this inquiry. AT&T, however, has required that these issues be raised on reply because of its customary practice of using every occasion to complain about its continued regulation.

The need for continued regulation of AT&T is illustrated in the comments filed by the single user organization participating in this proceeding, those of Aeronautical Radio, Inc. ("ARINC"). ARINC noted "that AT&T had taken advantage of various ambiguities in the Interexchange Competition Order⁴ to increase rates for certain private analog service offerings by as much as 500 percent, effectively circumventing the FCC's goal to protect users of analog private lines from such abuse."⁵

Like ARINC, IDCMA has petitioned the Commission for reconsideration of the Interexchange Competition Order in order to correct some of the deficiencies of premature deregulation created there. These corrections have at their base the need for continued tariff regulation of AT&T in those services where AT&T retains market power.

4 Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd 5880 (1991).

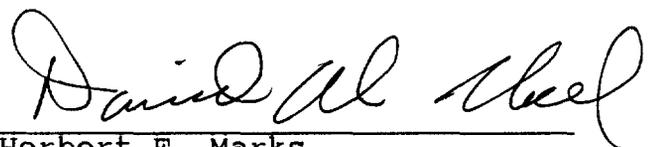
5 Comments of ARINC, CC Docket No. 92-134, at 2-3 (filed Sept. 4, 1992). AT&T has increased certain analog private services as much as 1000 percent in less than one year. Id. at 3-4.

As price caps is the single form of tariff regulation which the Commission has deemed suitable for AT&T -- and the Commission's own data and the evidence supplied by other commenters demonstrate that price cap regulation has "worked well" under the limited criteria considered by the Commission -- the Commission should therefore retain price cap regulation for AT&T. Instead of eliminating or reducing price cap regulation, the Commission should make modifications suggested by ARINC, IDCMA, and others to create safeguards where potential and actual abuses are made possible by AT&T's retention of market power.

Respectfully submitted,

INDEPENDENT DATA COMMUNICATIONS
MANUFACTURERS ASSOCIATION, INC.

By:



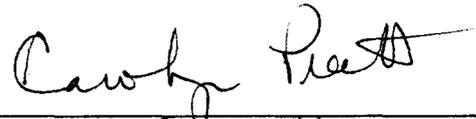
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CERTIFICATE OF SERVICE

I, Carolyn Pratt, hereby certify that copies of the foregoing Reply Comments of the Independent Data Communications Manufacturers Association, Inc. were served by hand or by First-Class United States mail, postage pre-paid, upon the parties appearing on the attached service list, this 5th day of October, 1992.



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