is of course that if the risks are to be borne by the investors, they must see the opportunity of retaining the supernormal profits from successful ventures.

(23) We have in the last very few years experienced a growing public recognition of the very large benefits to the economy at large of encouraging major investments by the telephone companies in what it is now a cliché to refer to as information superhighways--requiring very large investments in the digitalization of their networks and conversion to fiber optic transmission--while avoiding the imposition of unreasonable burdens on the subscribers to basic service. These investments--and the public's attitude toward them--have several characteristics arguing strongly for taking them fully out from under any remaining elements of traditional rate base/rate of return regulation. First, they are very large and very risky: their profitability will depend heavily on their ability to deliver new, diversified services the demand for which is highly uncertain and the offer of which may well be highly competitive. Second, despite the widespread conception that a modern electronic highway is likely to have very large external benefits to society at large--in terms of reducing congestion, saving transportation costs, permitting the superior delivery of such heavily publicly-funded services as education and health care and contributing powerfully to the increase of productivity and international competitiveness--there is a great reluctance to expend large sums of public money on their development. This is so not only because of the ubiquitous constraints on government budgets but also because of the inevitable uncertainty, in an environment of constantly changing technology, about the wisdom of particular investment programs. The third factor is the preoccupation of public policy makers with keeping the price of basic telephone service low and affordable, so as not to jeopardize the universality of subscription to it, and so with not permitting these investments to impose a burden on basic rates.

(24) These considerations lend added weight to the reform of the present LEC price cap plan that I have already recommended--substitution of a pure price cap on services for which competition has not fully developed and that we are determined to keep affordable, regardless of what happens to overall company costs and revenues. Such an arrangement has the virtue not only of protecting purchasers of the latter services from the outcomes of these huge new investments and the profitability or unprofitability of the services that they promise to be able to deliver; it also has the at least equal virtue of

placing on the shareholders of the private companies the responsibility and the risks of the major new investments required, along with the undiluted incentive to assume those risks because they will profit fully and without dilution to the extent the investments prove successful.

(25) Pure price cap regulation has the additional great virtue of making it possible to relax the restrictions on the ability of utility companies to compete and so mitigates the distortions of competition that those restrictions entail. Under rate of return regulation--and, to a lesser extent, under price cap schemes that retain elements of rate of return--there is always at least a theoretical possibility that the utility company, having reduced the prices of its competitive services, may be able to return to the regulator and obtain the right to raise prices of its less competitive services, in order to enable it to earn at the authorized level overall. This danger in turn provides the rationale for regulators setting floors under the competitive prices, with the enthusiastic support of the utility companies' rivals, floors typically above incremental cost--in order to make a "fair contribution" to the company's overall revenue requirements--and therefore at potentially inefficiently high levels.

(26) This is not to deny the possibility that unregulated companies as well may engage in predatory pricing. What makes no sense in unregulated markets, however--and also makes no sense under pure price caps--is cross-subsidization: there is no reason for unregulated firms not to have set the prices of their less competitive services at profit-maximizing levels already and firms subject to pure price caps not to have set them at the most profitable level permitted by the caps. In both situations this leaves no opportunity for recoupment of net revenue losses flowing from predation. We do not in unregulated markets guard against possible predation by setting floors under the prices of competitive services: it is widely recognized that such a practice would be far more likely to suppress competition, on balance, than to protect it. It is only the presence of rate base/rate of return regulation that creates the possibility of recoupment and therefore of cross-subsidization.

(27) The obvious solution to the problem of potential cross-subsidization, therefore, is not to put floors under the prices or otherwise hamstring the telephone companies in competitive markets but to abandon any remaining elements of rate base/rate

of return and substitute for it direct regulation of the prices of monopoly services, in this way breaking the link between those prices and overall company costs, prices and revenues. In its pure form, direct price regulation eliminates any entitlement of regulated companies to recover from monopoly customers any reductions in rate of return resulting from price cuts in competitive markets. It correspondingly eliminates any incentive of the regulated companies to shift costs from unregulated or competitive to less competitive services. Under price caps--or any form of incentive regulation that breaks the link between observed costs and prices--the LEC is no more able to cross-subsidize than an unregulated firm: if it invests money in the destruction of its rivals, it will have to absorb that investment as a reduction in its earnings and hope to recoup its losses later under more favorable circumstances.

(28) Yet another benefit of adopting pure price caps is that it would free LECs to pursue economically correct depreciation policies henceforward. Because prices would no longer be linked to earnings, measured by regulatorily prescribed accounting, the factors that have historically induced regulators to prescribe (what are widely recognized to have been) unrealistically slow depreciation policies for such purposes would no longer apply. Once prices are capped, the adoption of faster depreciation rates thereafter would not affect prices but would instead come out of reported profits.

B. Deregulation of competitive services

(29) The logic of this reform is so widely acknowledged, it seems superfluous to do more than mention it; but, clearly, as services become subject to effective competition, the proper solution is simply to deregulate them and, in so doing, eliminate all regulatory asymmetries and distortions of competition between the LECs and their rivals. Moreover, individual services should be removed from regulation as soon as they become competitive, and should be removed from regulation across whatever geographic area competition is present. It would be nonsense, for example, to suggest that no service should be deregulated until all services are competitive or to suggest that a service that is clearly competitive in one geographic area should not be deregulated in that area because it may not be competitive in some other geographic area--no matter how distant. This reform, unexceptionable in principle, may of course raise problems in practice: it can be very difficult in particular cases to obtain agreement among all interested parties about

services are or are not subject to effective competition. It is partly--but only partly--in recognition of these problems of administering this unexceptionable rule that I strongly support the following two additional reforms.

C. Deregulation of all new services

(30) The case for prompt deregulation of all genuinely new services does not depend on specific prior determinations that the relevant markets are effectively competitive. The logic of extending the deregulation of all effectively competitive services to all new services--whether or not subject to effective competition--is straightforward. To the extent that services are truly new, the conception of monopoly power in their provision is of dubious meaning or significance. New services offer customers additional alternatives not available to them previously. In the broader sense, therefore, their introduction is fundamentally a competitive rather than a monopolistic phenomenon, even though they may be distinctive and the innovator may be in a position to earn supernormal profits from them. It is difficult to see any justification, for example, for subjecting Bell Atlantic's proposed new video dialtone service to price cap regulation--all the more so because it will compete with the established services of the incumbent cable companies.

(31) As the distinguished economist Joseph A. Schumpeter emphasized, the process of innovation--which he characterized graphically as a "process of creative destruction"[15]--is a profoundly competitive phenomenon, which, at one and the same time, creates temporary monopolies and destroys preexisting ones. Those temporary monopolies provide both the necessary incentive and reward for risk-taking innovation, the primary key to economic progress. There is no reason to deny an innovator the rewards of being first--denial would inhibit innovation--and it should not matter whether the innovator is an LEC or a new entrant.

D. Deregulation of all non-core or discretionary services

(32) In my firm judgment, the logic of the market and of entrusting the exploitation of telecommunications technology to unconstrained entrepreneurialism--subject only to such economy-wide governmental protections as are embodied in the antitrust laws--

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[15] J. Schumpeter, Capitalism, Socialism and Democracy, Harper Colophone Books, 3rd Ed. 1975) at 81 (title of Chapter VII).

requires taking out of public utility regulation all non-core, non-basic or otherwise discretionary services--even services of which the telephone company may be the sole supplier, for the following reasons:

1. These discretionary services can in no sense be considered essentials or virtual essentials of life, like electricity or water or basic telephone service, such as have traditionally been the principal focus and rationalization of rate regulation.
2. Imposing regulatory constraints on the provision of such services, both new and old, inhibits entrepreneurialism and innovation. As I have already asserted, the fullest possible probing of the possibilities inherent in modern telecommunications technology calls for freeing private enterprises to undertake fully the risks of innovation--both marketing and technological--with the prospect of full enjoyment of the rewards of successes, inhibited by neither the need for regulatory approvals nor the prospect of regulatory recapture of the gains from them.
3. So far as existing discretionary services are concerned, many of them already have effective alternatives--answering machines for call-forwarding or E-mail, for example. For those that do not, opening their provision to the superior constraints of competition seems imminently possible, as the LECs comply with the regulatory requirements the Commission has already adopted--such as comparably efficient interconnection, open network architecture and collocation.
4. Even with respect to existing non-basic services in the provision of which the LECs may have monopoly power, what is required is a resolution that continues to reserve for the benefit of protected customers the profits that have historically flowed from those services to hold down charges for services that may be considered essential--particularly the basic monthly charge to residential customers. This is typically accomplished under rate cap regulation by beginning the future indexation of the affected rates at the historic level, which already reflects that contribution. It is not a question, therefore, of freeing the LECs to reap new and additional monopoly profits from preexisting discretionary services: they have typically been priced already to maximize the contribution to basic service. In this way, however, incremental profits or shortfalls that might flow

from changes in market circumstances--whether reflecting good or bad luck, improvements or failures of efficiency, successful or unsuccessful innovation--would accrue to investors, as the competitive ideal requires.

VI. CONCLUSION

(33) The ultimate ordering of telecommunications that I envision in this testimony, and that I believe the Commission envisions as well, is one in which the exploitation of the enormous potential of its dynamic technology would be left to the profit-seeking enterprise of any and all participating and potentially participating suppliers, risking their own capital in offering whatever services they think may have a profitable market, constrained only by the competition of others engaged in similar ventures and by a continuing public commitment to preserving the universality of basic or essential service.

(34) This means, ultimately, freeing not only any and all potential entrants but also the incumbent LECs: to offer whatever new services they wish, wire-based and radio-based, both locally and outside their traditional local service areas; to enter whatever markets they see fit to enter, whether by new investment or by acquisition (the latter subject only to the scrutiny of the antitrust laws), bearing the full risks of loss from any unsuccessful ventures, in exchange for the unrestricted right to the full profits from successful ones; to take such actions without prior regulatory approvals or subsequent second-guessing; and to compete without restrictions that are not imposed on their competitors.

(35) This means, in the present proceeding, that the Commission should adopt a pure price cap regulatory scheme for the LECs, remove one-sided regulatory restraints that limit their ability to compete and remove from regulation services that are competitive, new and/or discretionary. Ultimately, this means full deregulation of price, conditions of service, service offerings and of entry and exit from any and all telecommunications markets.

Alfred E. Kahn

Sworn before me this 28th day
of June, 1994.

Notary Public

My commission expires 6/30/96

DELO[illegible] [illegible]NING
Notary Public, State of New York
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Professor Kahn is the Robert Julius Thorne Professor of Political Economy, Emeritus, at Cornell University.

He has been Chairman of the New York Public Service Commission; Chairman of the Civil Aeronautics Board; and Advisor to the President (Carter) on Inflation and Chairman of the Council on Wage and Price Stability.

Professor Kahn received his Bachelor's and Master's degrees from New York University and a Doctorate in Economics from Yale University. Following service in the Army, he served as Chairman of the Department of Economics at Ripon College, Wisconsin. He moved to the Department of Economics at Cornell University, where he remained until he took leave to assume the Chairmanship of the New York Public Service Commission. During his tenure at Cornell, Professor Kahn served as Chairman of the Department of Economics, member of the Board of Trustees of the University and Dean of the College of Arts and Sciences.

Throughout his career, Professor Kahn has served on a variety of public and private boards and commissions including: the Attorney General's National Committee to Study the Antitrust Laws; the senior staff of the President's Council of Economic Advisors; the Economic Advisory Council of American Telephone & Telegraph Company; the National Academy of Sciences Advisory Review Committee on Sulfur Dioxide Emissions; the Environmental Advisory Committee of the Federal Energy Administration; the Public Advisory Board of the Electric Power Research Institute; the Board of Directors of the New York State Energy Research and Development Authority; the Executive Committee of the National Association of Regulatory Utility Commissioners; the National Commission for Review of Antitrust Laws and Procedures; the New York State Council on Fiscal and Economic Priorities; the Governor of New York's Fact-Finding Panel on Long Island Lighting Company's Nuclear Power Plant at Shoreham, L.I.; the Governor of New York's Advisory Committee on Public Power for Long Island; the National Governing Board of Common Cause; and, in 1990, as Chairman of the International Institute for Applied Systems Analysis Advisory Committee on Price Reform and Competition in the USSR.

He has also served as a court-appointed expert in State of New York v. Kraft General Foods, Inc., et al., U.S. Disctrict Court, S.D.N.Y.; Advisor to New York Governor Carey on Telecommunications Policy; and as a consultant to the Attorneys General of New York, Pennsylvania and Illinois, the Ford Foundation, the National Commission on Food Marketing, Federal Trade Commission, Antitrust Division of the Department of Justice, the U.S.

Department of Agriculture and the City of Denver on charging and financing of Stapleton Airport.

He has received L.L.D. honorary degrees from Colby College, Ripon College, Northwestern University, the University of Massachusetts and Colgate University, and an honorary D.H.L. from the State University of New York, Albany; he also received the Distinguished Transportation Research Award of the Transportation Board Forum, The Alumni Achievement Award of New York University, the award of the American Economic Association's Transportation and Public Utilities Group for Outstanding Contributions to Scholarship, The Henry Edward Salzberg Honorary Award from Syracuse University for Outstanding Achievement in the Field of Transportation, and the Burton Gordon Feldman Award for Distinguished Public Service from Brandeis University; and was elected to membership in the American Academy of Arts and Sciences and Vice President of the American Economic Association. He is a regular commentator on PBS's "The Nightly Business Report."

He has testified before many U.S. Senate and House Committees, the Federal Power Commission, the Federal Energy Regulatory Commission and numerous state regulatory bodies.

Professor Kahn's publications include *Great Britain in the World Economy; Fair Competition: The Law and Economics of Antitrust Policy* (co-authored); *Integration and Competition in the Petroleum Industry* (co-authored); and *The Economics of Regulation.* He has written numerous articles which have appeared in *The American Economic Review, The Quarterly Journal of Economics, The Journal of Political Economy, Harvard Law Review, Yale Journal on Regulation, Yale Law Journal, Fortune, The Antitrust Bulletin* and *The Economist,* among others.

EDUCATION:

YALE UNIVERSITY
Ph.D., Economics, 1942

UNIVERSITY OF MISSOURI
Graduate Study, 1937-1938

NEW YORK UNIVERSITY
M.A., Economics, 1937
A.B. (summa cum laude), Economics, 1936

EMPLOYMENT:

1961-1974	NATIONAL ECONOMIC RESEARCH ASSOCIATES, INC.
1980-	Special Consultant

	CORNELL UNIVERSITY
1947-1989	Assistant Professor; Associate Professor; Robert Julius Thorne Professor of Economics; Robert Julius Thorne Professor of Political Economy, Emeritus, 1989-; Chairman, Department of Economics; Dean, College of Arts and Sciences; on leave 1974-80.
	NEW YORK UNIVERSITY SCHOOL OF LAW
Spring 1989	Visiting Meyer Professor of Law
	UNITED STATES GOVERNMENT
1978-1980	Advisor on Inflation to President Carter
1978-1980	Chairman, Council on Wage and Price Stability
1977-1978	Chairman, Civil Aeronautics Board
1955-1957	Senior Staff, Council of Economic Advisors to the President
1943	U.S. Army, Private
1943	War Production Board
1942	Associate Economist, International Economics Unit, Bureau of Foreign and Domestic Commerce, Department of Commerce
1941-1942	Associate Economist, Antitrust Division, U.S. Department of Justice
	NEW YORK STATE PUBLIC SERVICE COMMISSION
1974-1977	Chairman
	BROOKINGS INSTITUTION
1940, 1950-1951	Staff Economist
	RIPON COLLEGE
1945-1947	Assistant Professor, Chairman, Department of Economics
	TWENTIETH CENTURY FUND
1944-1945	Research Economist
	COMMISSION ON PALESTINE SURVEYS
1943-1944	Economist
	UNIVERSITY OF MISSOURI
1937-1938	Teaching Assistant

CONSULTANCIES AND PROFESSIONAL ACTIVITIES:

1993	Court-appointed expert in State of New York v. Kraft General Foods, Inc., et al., U.S. District Court, S.D.N.Y.
1992	New Zealand Telecom on the progress of competition in New Zealand telecommunications
1992	Rochester Telephone Company on corporate restructuring and deregulation
1992	Russian Government on economic reform
1991	British Mercury on terms of competition with British Telecom
1989	City of Denver on charging and financing of Stapleton Airport
1988-1990	Attorneys General, New York and Pennsylvania, on airline mergers
1985	Attorney General, State of Illinois, on Illinois Bell rates

1981-1984	City of Long Beach, California, the Coca-Cola Company and American Airlines on antitrust litigation
1981-	Economic commentary, Nightly Business Report (PBS)
1980-1982	Advisor to Governor Carey on Telecommunications Policy
1968	Ford Foundation
1966	National Commission on Food Marketing
1965,1974	Federal Trade Commission
1963-1964	Antitrust Division, Department of Justice
1960-1961	U.S. Department of Agriculture
1957-1961	Boni Watkins, Jason & Co.

See also the list of testimony below.

MEMBERSHIPS:

1992-	Member, New York State Telecommunications Exchange
1992-93	Member, Ohio Blue Ribbon Panel on Telecommunications Regulation
1991-	Board of Editors, *Review of Industrial Organization*
1990-92	Chairman, International Institute for Applied Systems Analysis Advisory Committee on Price Reform and Competition in the USSR
1986	Governor Cuomo's Advisory Panel on public power for Long Island
1983-89	Governor Cuomo's Fact-finding Panel on Long Island Lighting Company's Nuclear Power Plant at Shoreham, L.I.
1983-90	New York State Council on Fiscal and Economic Priorities
1982-	*The American Heritage Dictionary* Usage Panel
1982-1985	Governing Board, Common Cause
1980-1986	Director, New York Airlines
1978-1979	National Commission for the Review of Antitrust Laws and Procedures
1975-1977	Project Committee, Electric Utility Rate Design Study, Electric Power Research Institute
1974-1975	National Academy of Science Review Commission on Sulfer Oxide Emissions
1974-1977	Public Advisory Board, Electric Power Research Institute
1974-1977	Environmental Advisory Committee, Federal Energy Administration
1974-1977	Executive Committee, National Association of Regulatory Utility Commissioners, and Chairman, Committee on Electric Energy
1968-1974	Economic Advisory Board, American Telephone & Telegraph Corporation
1965-1967	Economic Advisory Committee, U.S. Chamber of Commerce
1967-1969	Chairman, Tompkins County Economic Opportunity Corporation
1964-1969	Board of Trustees, Cornell University
1961-1964	Board of Editors, *American Economic Review*
1953-1955	Attorney General's National Committee to Study the Antitrust Laws

HONORS AND AWARDS:

Mar 1989	Burton Gordon Feldman Award for Distinguished Public Service, Gordon Public Policy Center, Brandeis University
Feb 1989	Distinguished Service Award, Public Utility Research Center, University of Florida
Nov 1988	International Film and TV Festival of New York, Bronze Medal presented to The Nightly Business Report/WPBT2 for Editorial/Opinion Series written by Alfred E. Kahn
Apr 1986	Harry E. Salzberg 1986 Honorary Medallion for outstanding achievement in the field of transportation

Oct 1984	Distinguished Transporation Research Award of the Transportation Research Forum
1981-1982	Vice President, American Economic Association
1978	Richard T. Ely lecturer, American Economic Association, 1978
1978	Rejection Scroll, International Association of Professional Bureaucrats
May 1985	State University of New York (Albany), DHL (Hon.)
May 1983	Colgate University, LL.D. (Hon.)
June 1982	Northwestern University, LL.D. (Hon.)
May 1980	Ripon College, LL.D. (Hon.)
May 1979	University of Massachusetts, LL.D. (Hon.)
May 1978	Colby College, LL.D. (Hon.)
1977-	Fellow of the American Academy of Arts and Sciences
1976	Distinguished Alumni Award, New York University
1976	American Economic Association, Section on Public Utilities and Transportation, citation for distinguished contributions
1954-1955	Fulbright Fellowship, Italy
1935-	Phi Beta Kappa
1939-1940	Yale-Brookings Fellow

BOOKS:

The Economics of Regulation, 2 volumes, John Wiley, 1970 and 1971. Reprinted by The MIT Press, 1988, with a new "Introduction: A Postscript, Seventeen Years After," pp. xv-xxxvii.

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Fair Competition: The Law and Economics of Antitrust Policy (with Joel B. Dirlam) (Cornell University Press, 1954). Reprinted by Greenwood Press, 1970.

Great Britain in the World Economy (Columbia University Press, 1946). Reprinted in 1968.

MAJOR ARTICLES:

"The Pricing of Inputs Sold to Competitors: A Comment," in *Yale Journal on Regulation*, Vol. 11, No. 1, Winter 1994, pp. 225-240.

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