service offerings from 45 days to as little as 7 to 15 days, depending on whether the new rate for the service would be lower or higher after restructuring.[53] In addition, the Commission proposes to delegate to the Common Carrier Bureau the authority to determine whether a given new service should be classified as Track 1 or Track 2 based upon a LEC's petition for Track 2 treatment.[54] According to the Second Further Notice, the LEC's petition would be deemed granted 10 days after it is filed, unless the Bureau acts within that 10 day period to inform the carrier that its request is denied.

Taken at face value, each of the Commission's proposals with respect to new services acts to reduce or impair the ability of the Commission and the public, including LEC competitors, to have an adequate opportunity to scrutinize and object to a LEC's proposed new service offerings. Specifically, any reduction in the public notice period and the required cost support for new service introductions forces the Commission and other parties to work hastily and with less evidence available to determine whether a new LEC service is in the public interest. In addition, the Commission's proposal to shorten the notice requirement for proposed service restructurings could lead to a rash of LEC "restructurings" of services to avoid the scrutiny available under the current 45 day notice period.

While the Commission states that it is concerned about the administrative burdens that it and the price cap LECs face with respect to the introduction of new services,[55] the Commission's first concern in this proceeding must be the public interest. As Commission

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[53] Id. at ¶ 51.

[54] Id. at ¶ 48.

[55] Id.

CONCLUSION

The deregulation of price cap carriers proposed in the Second Further Notice is the goose that will kill the golden egg of competition. The Commission must resist the temptation of giving incumbents flexibility on the assumption that it is needed "to meet" competition, before facilities-based competitors even really exist. Such flexibility should only be granted sparingly as a reward for opening up local telecommunications markets and for meeting the benchmarks necessary to promote competition. Until actual facilities-based competition exists in viable market share, it is premature for the Commission to afford the

LECs significant pricing flexibility. CCTA hopes that several years from now, robust facilities based competition will exist and can replace regulation. At such time, the flexibility proposed in this docket would be reasonable.

Respectfully submitted,

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Dated: December 11, 1995

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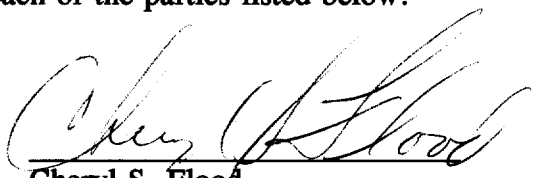
CERTIFICATE OF SERVICE

I, Cheryl S. Flood, hereby certify that on this 11th day of December, 1995, a copy of the foregoing "Comments of The California Cable Television Association" was delivered by hand or by first-class mail, postage prepaid, to each of the parties listed below.



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