Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

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Comments of the
Information Industry Association

The Information Industry Association (IIA) hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking[1] in this proceeding. The Commission has initiated this rulemaking pursuant to the congressional directives set out in new Section 254 of the Communications Act of 1934, as added by the Telecommunications Act of 1996 (1996 Act).[2] Recognizing that Congress has mandated the continuance of an unspecified level of universal access to services, IIA encourages the Commission to use this opportunity to reassess the implications of its current universal service support mechanisms and to consider the impact of expanded universal service requirements on the burgeoning information industry.

IIA is a trade association of more than 550 companies engaged in the generation, distribution, transmission and use of information products and services. IIA's members provide access to many of the digital networks that comprise the National

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[1] Federal State Joint Board on Universal Service, CC Docket No. 96-45, Notice of Proposed Rulemaking (March 8, 1996).

[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§151 et seq.)[hereinafter 1996 Act].

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Information Infrastructure ("NII") and the Global Information Infrastructure ("GII"), as well as the content that is provided on those networks. As content and access providers, our members are dependent upon telecommunications facilities. Therefore, any proceeding which affects the pricing of and access to transmission facilities will have a direct impact on IIA members' services and markets.

IIA believes that market forces, not regulatory obligations, will best promote the development of advanced telecommunications and information services. IIA supports reliance on market forces to determine which services the public wants and needs, and believes the current market is adequately promoting development of advanced services. Furthermore, while ubiquitous availability of traditional telephone services should appropriately be promoted, IIA is concerned that an expansion of universal service obligations beyond historical levels may distort the market for information services by increasing costs and inefficiently allocating resources.

Our members have been at the forefront of the private sector's efforts to introduce new information services to the public. Because of their position as providers of local exchange and interLata service, content, and interactive network access, our members have a vital interest in the outcome of this proceeding. Universal service must be viewed through the prism of the rapid restructuring and explosive technological advances currently taking place within the telecommunications and information industries. We appreciate the opportunity to comment on this current proceeding.

The Telecommunication Act of 1996's recognition of a public interest in the availability of information services is best achieved through the continuation of competitive offerings in the marketplace.

Section 254 (b) of the 1996 Act provides the FCC with several guiding principles in its effort to implement the goals of universal service. Among these is that "consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."[3]

Although IIA strongly supports the goal of promoting public *access* to advanced telecommunications and information services, such services themselves are not appropriate subjects for universal service obligations. Rather, the universal service fund (USF) should be targeted at facilitating availability of core telecommunication services to all citizens in need, especially the traditionally underserved populations. The benefits of advancing the nation's information infrastructure that can derive from the 1996 Act will be hindered if the information services industry is subjected to regulation or required to make available services under the guise of universal service requirements. Regulation of this industry would mean that the government, rather than consumers will be placed in the position of picking marketplace winners and losers. This will result in inefficient allocation of resources, undermine the industry's responsiveness to market forces, and impede the

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[3] 1996 Act sec. 101(a), §254(b)(3).

development of new services by reducing the incentive for companies to modernize and become competitive.

Today, competition has created a wide array of new products and services which were unimaginable only a few years ago. Originally only a loosely knit interactive network within the Department of Defense, the "Internet" has become a major component of the NII that now reaches millions of business and private consumers around the world. As technology and competition continue to progress, consumers will be able to freely choose the products and services they want from a variety of service providers. Companies such as America Online, Prodigy and Netscape, as well as traditional telecommunications providers such as AT&T, MCI and large local exchange companies are actively engaged in meeting this demand. For example, when AT&T announced its "WorldNet" access program to provide free internet access to long distance customers, MCI quickly followed suit.[4]

These new bidding wars for information service customers are evidence that market forces are an efficient means of providing affordable applications and services. Indeed, the competition envisioned under the 1996 Act is a highly desirable aspect of new telecommunications infrastructure development. Allowing the industry to compete without government regulation has permitted the explosive growth of this new medium and the concomitant ability of millions of users to obtain access to it. IIA believes that the emerging competitive environment in the telecommunications industry is the best means of achieving the goal of greater public access to enhanced information services.

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[4] Thomas E. Weber, MCI Matches AT&T's Internet Offer of Free Access to Long-Distance Clients, Wall St. J., March 19, 1996, at B3.

Universal service obligations distort the market for information services and reduce access by increasing costs and misallocating market resources.

IIA supports the mandate under the 1996 Act to create universal service support schemes that are more competitive, explicit. and efficient than those currently in place. The existing USF is supported by hidden subsidies to providers that result in inefficient allocations of resources and undermine competitive markets. To the extent subsidies are required, they should be limited and explicit. Collection methods must also be consistent with the 1996 Act's goal of deploying advanced infrastructure by fostering cost-based allocations and minimizing subsidies. IIA believes that these funds should be collected and distributed in a competitively neutral fashion in order to avoid market distortion.

Such is not the case today. Under the current USF regime, interexchange carriers are required to pay above-cost rates to LECs for existing switched access charges. These funds are then used to keep local service rates low, thereby insuring an available carrier to low income and rural areas. However, these higher rates result in market distortion by inhibiting the efficient allocation of market resources. In order to recover these non-economic access charges, carriers pass the cost to the consumer. These inefficiencies and unnecessary financial burdens send the wrong signal to the marketplace and dampen the efficient investment of financial resources by either party in emerging information services.

Finally, universal service should be targeted to those parts of the nation that are in greatest need. Carriers in high-income regions currently have little or no incentive to increase efficiency when their services are subsidized through the USF. If the fund were distributed on a more discriminating basis, high cost telecommunications providers would be forced to remove unnecessary expenses from their operations, resulting in more efficient use of their resources.

The FCC should not impose additional universal service obligations on information service providers.

IIA's membership includes information service companies that provide access to the interactive networks that are at the center of the NII and GII. Like other information service providers, such companies are not carriers. They are consumers, in that they must purchase access to the telecommunications infrastructure from carriers in order to connect their customers with interactive networks. To prevent access providers from being "double-billed", the FCC must be cautious not to include access providers within the definition of parties likely to be required to pay into the universal service fund.

In order to connect customers with interactive networks, access providers lease telecommunications services which will permit the connections. The carrier treats the access provider like any other consumer which has leased these lines and likely will include its USF obligation in its charges to the access provider. In order to recover this underlying business cost, the access provider might try to include this fee in its bill to its customers as a result. If assessed additional universal service funding obligations, those customers would end up paying twice into the fund.

Collection of universal service contributions from information service companies would be bad public policy for another reason. The profit margins of most small and emerging information service providers are extremely narrow. To require them to subsidize other industries and services would threaten their growth by misallocating financial resources that could otherwise be used to invest in new technologies. These investments are essential to the 1996 Act's mandate of promoting competition within the industry by allowing nascent companies to develop and invest in new technologies, thereby providing consumers with modern services at lower cost. Decision makers must assess the policies and procedures used to implement these goals in the context of new technologies and market structures.

Conclusion

IIA appreciates the Commission's willingness to solicit industry comments on the full range of issues raised by the universal service provisions of the 1996 Act. The recent growth of the information and telecommunications industries demonstrates that a competitive marketplace, driven by the incentive to meet consumer demand, is the most efficient way of providing universal access to telecommunications and information services.

Respectfully submitted,

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