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Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FEDERAL-STATE JOINT BOARD
ON UNIVERSAL SERVICE

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CC DOCKET NO. 96-46

TO: FEDERAL-STATE JOINT BOARD

COMMENTS OF COMPUSERVE INCORPORATED

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April 12, 1996

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SUMMARY

CompuServe is one of the world's leading providers of information services. It acquires regulated basic communications services from facilities-based carriers and combines these basic services with computer processing applications to provide a wide variety of enhanced online information and database services to subscribers around the world. CompuServe also provides its subscribers access to the Internet, either as part of its proprietary service or on a stand-alone basis. CompuServe provides its services based on a client-server model under which multiple CompuServe subscribers ("clients") typically are afforded remote access to store or retrieve information in host or "server" computers.

In implementing its responsibilities to promote universal service under the 1996 Telecommunications Act, the Commission should recommend policies consistent with the pro-competitive and deregulatory focus of the 1996 Act. The Commission should rely to the maximum extent possible on the marketplace and private sector initiative to achieve the statute's universal service objectives and should avoid the use of broad or intrusive subsidy programs that distort the workings of the competitive marketplace. In particular, the Commission should reexamine the current program under which carrier common line ("CCL") charges are recovered from interstate common carriers on a per-minute basis. This program, which causes high-volume users of interstate long distance service to subsidize low-volume users, appears inconsistent with the provisions of the 1996 Act that limit subsidies to statutorily-defined groups.

To the extent the Commission decides carefully-targeted universal service subsidy programs are needed, the 1996 Act provides that contributions may be required only from "telecommunications carriers" or "other providers of interstate telecommunications." Enhanced service providers like CompuServe which provide online and/or Internet access services lawfully may not be required to contribute because they do not engage in "telecommunications," provide "telecommunications service," nor act as "telecommunications carriers."

The conclusion that enhanced service providers do not constitute "telecommunications carriers" within the meaning of the statutory definitions is confirmed by an analysis of the Commission's historical treatment of enhanced service providers and the 1996 Act as a whole. In the Computer II proceeding, the Commission drew a bright line distinction between regulated basic communications services and unregulated enhanced services such as online and Internet access services. Nothing in the 1996 Act indicates that Congress intended to change the unregulated status of enhanced service providers. To the contrary, Congress defined

"interactive computer service" in a way that encompasses both online and Internet access services and then declares its intention not to treat providers of interactive computer services as either common carriers or telecommunications carriers. Moreover, by incorporating into the Communications Act a definition of "information services" that the courts and the Commission both have previously found to be substantially equivalent to the Commission's definition of enhanced services, Congress has confirmed the continued viability of, and desirability for the maintenance of, the Commission's Computer II bright line distinction between regulated providers of basic telecommunications services (subject to universal service contribution requirements) and unregulated providers of enhanced information services such as online and Internet access services (not subject to universal service contribution requirements).

Assuming for the sake of argument, however, that providers of online and Internet access services could be classified as "other providers of telecommunications" -- which they cannot be -- sound public policy reasons dictate that the Commission not exercise any discretion it arguably may have to subject enhanced service providers to universal service contribution requirements. First, such requirements will make enhanced services less affordable because providers will pass on at least some of the costs to end users. Second, any such requirements likely will be used as precedent by State authorities to do the same, perhaps at much higher levels of contribution than required by the Commission. Third, such requirements may have a precedential impact abroad, an impact that appears inconsistent with the U.S. Government's long-standing position that international enhanced services should not be subject to regulation. Fourth, it would be administratively impossible to formulate a nondiscriminatory universal service contribution policy because online service and Internet access service providers enter and exit the market without regulatory notification. Finally, imposition of a universal service contribution requirement on enhanced service providers simply would not be fair and equitable because such providers already will have made a contribution to universal service through the rates they pay for the underlying basic services that they acquire to combine with computer applications. Requiring a second contribution from enhanced service providers would be duplicative and unreasonably burdensome. Most importantly, it would be counter-productive to the Congressionally-prescribed goal of making information services as widely available as possible.

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

**FEDERAL-STATE JOINT BOARD
ON UNIVERSAL SERVICE**

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CC DOCKET NO. 96-45

TO: FEDERAL-STATE JOINT BOARD

COMMENTS OF COMPUERVE INCORPORATED

CompuServe Incorporated ("CompuServe"), by its attorneys and pursuant to Section 1.415 of the Commission's rules, hereby files its comments in response to the Notice of Proposed Rulemaking and Order Establishing Joint Board ("Notice"), FCC 96-93, issued March 8, 1996, in the above-captioned proceeding. In the Notice, the Commission solicits comments to be considered by the Federal-State Joint Board in the preparation of a recommended decision addressing the universal service issues raised in connection with the implementation of new Section 254 of the Communications Act of 1934, as amended ("the Act").^{1/}

^{1/} CompuServe recognizes that the Joint Board initially will review these comments and then make a recommendation to the Commission, so CompuServe intends that its references in these comments to the Commission be read to include the Joint Board as well.

I. COMPUSERVE'S INTEREST IN THIS PROCEEDING

CompuServe is one of the world's leading providers of information services. CompuServe acquires regulated basic communications services from facilities-based carriers, and it combines these underlying basic services with computer processing applications to offer a wide variety of enhanced online information and database services to more than 4.7 million members in over 140 countries. In the United States, over 92 percent of the population can reach CompuServe simply by dialing a local telephone number.

Through its Information Service, CompuServe provides its members with access to over 2,000 interactive computer-based services. Among other things, these services allow people to bank, shop, and make travel reservations from their homes; access up-to-the-minute news, weather, financial, and sports information; utilize a host of instructional, educational, scientific, and other reference databases; participate interactively in special interest fora and electronic bulletin boards on a wide range of subjects; and send/receive electronic mail ("e-mail"). These services typically are offered as an integrated package of services for a bundled price.

CompuServe also provides its members access to the Internet. Members can obtain Internet access as a part of the integrated package of CompuServe's proprietary services, or, if they prefer, on a stand-alone basis. For example, under its recently introduced WOW! by CompuServe™ service, CompuServe

provides unlimited access to its proprietary service as well as to the Internet for a flat monthly charge of \$17.95 per month.^{2/}

Additionally, CompuServe provides value-added information services to business customers. Over 2,000 companies rely on CompuServe's enhanced business information services, including financial transactions processing and electronic data interchange services.

CompuServe provides online information and Internet access services to its residential and business subscribers based on a client-server model in which multiple CompuServe subscribers ("clients") typically are afforded remote access through their computer terminals to vast amounts of information stored in host or "server" computers. CompuServe does not own the underlying transmission facilities over which it provides its enhanced consumer and business information services. Rather, as stated previously, CompuServe acquires basic transmission facilities and services from regulated common carriers. All of the information services provided by CompuServe are considered enhanced within the meaning of the Commission's rules, 47 C.F.R. §64.702(a), and, therefore, are not subject to regulation under Title II of the Communications Act.

^{2/} Over the years, the prices for CompuServe's Information Service have been reduced many times. Today, under one popular plan, a member is charged \$9.95 per month. This monthly fee includes five hours of usage; additional hours are charged at \$2.95 per hour. In 1987, for example, the hourly rate for a subscriber using a 1200 or 2400 baud modem was \$12.50 per hour. The current charges are not dependent on modem speed and most subscribers today are using either 14,400 or 28,800 baud modems.

II. TO THE EXTENT POSSIBLE, THE COMMISSION SHOULD RELY ON MARKETPLACE FORCES TO SATISFY ITS UNIVERSAL SERVICE RESPONSIBILITIES, AND ANY UNIVERSAL SERVICE SUBSIDIES THAT ARE ADOPTED SHOULD BE EXPLICIT AND NARROWLY FOCUSED

The Telecommunications Act of 1996 ("1996 Act")^{3/} constitutes the first comprehensive revision to the Communications Act, a statute enacted when telecommunications was dominated by AT&T and extensive regulation was considered necessary because of the lack of competitive alternatives. As stated on the very first page of the Senate-House Conference Report accompanying the legislation, the purpose of the 1996 Act is to shift from the 1934 policy requiring extensive federal regulatory oversight of a few dominant carriers to:

a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and service to all Americans by opening all telecommunications markets to competition.^{4/}

Because the 1996 Act is a complex statute not without ambiguities, this statement of the 1996 Act's overriding purpose should be used by the Commission as an interpretative guide when in doubt about the meaning of a particular statutory provision. For example, to meet the universal service requirements under new Section 254 of the Communications Act, the Commission should, consistent with the pro-competitive and deregulatory focus of the 1996 Act, rely to the maximum extent possible on free competition

^{3/} Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§ 151 et seq.).

^{4/} S. Conf. Rep. No. 104-230, 104th Cong. 2d. Sess. 1 (1996) (emphasis supplied).

and private sector initiative to achieve the statute's objectives. Broad or intrusive subsidy programs that distort the workings of the competitive marketplace should be avoided.

Congress has provided guidance regarding how universal service subsidies should be determined and distributed in the future. Sections 254(b)(5) and 254(e) of the Act require that universal service subsidies be "specific, predictable . . . explicit and sufficient." Section 254 also requires that universal subsidies be narrowly focused and targeted to one of the following classes of telecommunications consumers: (1) low-income consumers and those in rural, insular, and high cost areas who do not have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates reasonably comparable to rates charged for similar services in urban area; and (2) elementary and secondary schools and classrooms, health care providers for rural areas and libraries which require discounts to ensure affordable access to advanced telecommunications services.

In implementing the new statutory directives, the Commission must examine its current universal service subsidy programs to determine their compliance with the 1996 Act. Such an examination may show that the various subsidies currently being employed to shift costs from local exchange service to interstate long distance services are overly broad and do not

satisfy the new statutory criteria for universal service funding mechanisms.^{5/}

One existing subsidy that the Commission appropriately recognizes should be reexamined is the subsidy of the interstate costs of subscriber loops (the lines connecting subscribers to local telephone company central offices) by the per-minute carrier common line ("CCL") charge paid by interstate interexchange carriers ("IXCs"). See Notice at paras. 112-113. Although a portion of the fixed costs of subscriber loops allocated to the interstate jurisdiction is recovered directly from subscribers through flat monthly subscriber line charges ("SLCs"), Commission rules impose caps on SLC charges at levels which do not allow full recovery of the interstate subscriber loop costs. The remaining fixed costs are recovered through the per-minute CCL charge paid by IXCs.

In the Notice, the Commission correctly concludes that the subsidy reflected in CCL charges is inconsistent with the directives of the 1996 Act. Id. at para. 113. Through imposition of the per-minute CCL charge, high-volume users of interstate long distance service subsidize low-volume users. Low-volume users, however, are not among the statutorily defined groups (low-income consumers, those in rural, insular or high cost areas, health care providers or educational institutions)

^{5/} See Notice at paras. 28-29 (discussion of dial equipment minute and universal service fund subsidy program).

eligible for universal service subsidies. Indeed, many low-volume users may be high-income, urban residents.

The current CCL subsidy program also is inconsistent with the Commission's longstanding policy that costs be borne by the cost causers.^{6/} The Commission is well aware that continuation of a program in which per-minute usage charges are used to recover fixed costs results in distorted incentives and accompanying economic inefficiencies.^{7/} CompuServe recommends, therefore, that the cost of subscriber loops be recovered directly from the cost causers through a phase-out of the CCL subsidy over a transitional period. To the extent this results in increased monthly SLC charges that low income subscribers and subscribers in rural, insular and high cost areas may find burdensome, the Commission should provide explicit, targeted subsidies only to those subscribers who otherwise may not be able to afford local telephone service.

III. BECAUSE ENHANCED SERVICE PROVIDERS LIKE COMPUSERVE WHICH PROVIDE ONLINE AND/OR INTERNET ACCESS SERVICES ARE NOT "TELECOMMUNICATIONS CARRIERS" AND DO NOT OTHERWISE PROVIDE "TELECOMMUNICATIONS," THEY ARE NOT SUBJECT TO EITHER MANDATORY OR DISCRETIONARY UNIVERSAL SERVICE CONTRIBUTIONS

Section 254(d) of the Act provides that "telecommunications carriers" shall be required to contribute to any universal service subsidies which may be mandated by the

^{6/} See, e.g., Expanded Interconnection with Local Telephone Company Facilities, 9 FCC Rcd 2718, 2728 (1994).

^{7/} MTS and WATS Market Structure, 93 F.C.C. 2d 241, 275 (1983).

Commission and that "[a]ny other provider of interstate telecommunications" may be required to contribute "if the public interest so requires." "Telecommunications carriers" and "other providers of telecommunications" are the only entities which Congress made subject to potential universal service contribution requirements. Revised Section 3 of the Communications Act provides the definitional framework for determining which entities comprise these categories:

- (48) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- (49) The term 'telecommunications carrier' means any provider of telecommunications services. . . . A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services. . . .
- (51) The term 'telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Enhanced service providers such as CompuServe which provide online and Internet access services neither engage in "telecommunications," provide "telecommunications service," nor act as "telecommunications carriers." As such, enhanced service providers are not subject to universal service contribution requirements on either a mandatory or discretionary basis.

**A. Online And Internet Access Services Do Not
Constitute "Telecommunications"**

The three essential elements which define "telecommunications" within the meaning of Section 3(48) of the Act are that: (1) the service transmits information "between or among points specified by the user," (2) the information transmitted is "of the user's choosing," and (3) transmission of information occurs "without change in the form or content of the information as sent and received." All three elements must apply for a service to be considered "telecommunications."

Online services clearly do not constitute "telecommunications" because they are characterized by none of these three elements. First, online services do not transmit information between or among points specified by the user. Although the user chooses from which point to initiate the service, the online service provider chooses the computer locations through which and with which the user interacts. Various online databases may be located in different physical locations -- possibly even from one day to the next -- and the user has no choice in the matter. Even e-mail messages fall outside this element because e-mail entails the storage and retrieval of a message at a computer designated by the online provider, not the user. Indeed, the storage and retrieval components of e-mail clearly make it an "information service"

which the 1996 Act defines separately and distinguishes from "telecommunications."^{8/}

Second, online services do not transmit information only of the user's own choosing. For example, information retrieval services and computer games obviously do not transmit information of the user's own choosing. Information is supplied through interaction with the provider's host computers.

Third, the transmission of information via online services does not occur without change in the form or content of the information as sent and received. This is true even for services such as e-mail. A recipient of an e-mail message transmitted by an online service provider receives different content than that sent by the user, namely, header information which identifies the sender, the sender's return address, the type of protocols and character sets employed, the gateways through which the message passed, as well as date and time stamps for the message.^{9/} The form of an e-mail message also is altered, for example, when the text wraps to the next line in different places on the sender's and the recipient's screens. Information retrieval services also change the form of

^{8/} New Section 3(41) defines "information service" as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications" (emphasis supplied).

^{9/} As described above, e-mail also does not satisfy the second element of "telecommunications" because e-mail automatically adds header information not of the user's choosing.

information transmitted to the extent information is compressed for storage and then uncompressed for retrieval.

The characteristics of Internet access service are similar to online services in this regard. Internet access providers also do not transmit information between points of the users' choosing. Just as with online services, the user does not choose the location of the Internet computers with which it will interact. Content providers, not the user, determine the locations of the various host computers which may be involved with each session. Information transmitted via Internet access services also undergoes changes in form and content by virtue of the particular codes and protocols employed by the provider. E-mail messages transmitted via Internet access providers undergo the same form and content changes described above for proprietary online service e-mail. Moreover, the information contained in "home pages" on the World Wide Web is received differently by various users depending upon the graphic and text capabilities of the user's computer and the interaction with the provider's protocols. In sum, neither online services nor Internet access services constitute "telecommunications" within the meaning of the 1996 Act.

B. Providers Of Online And Internet Access Services Are Neither "Telecommunications Carriers" Nor "Other Providers of Telecommunications" Subject To Potential Universal Service Contribution Requirements

As described above, online and Internet access services do not constitute "telecommunications" within the meaning of

Section 3(48) of the Act. Providers of online services and Internet access services, therefore, by definition cannot be "telecommunications carriers" or "other providers of telecommunications" which are subject to potential universal service contribution requirements. This conclusion, based on an interpretation of the specific statutory definitions adopted as part of the 1996 Act as well as the Act's structure, is confirmed by analysis of the Commission's historical treatment of enhanced service providers and the 1996 Act as a whole.

In its Computer II rulemaking proceeding in the early 1980s,^{10/} the FCC undertook an extensive analysis to determine whether services providing computer processing applications in conjunction with telecommunications constituted common carriage subject to regulation under Title II of the Communications Act. The Computer II proceeding established a dichotomy between regulated "basic" communications services and unregulated "enhanced" services:

Basic services involve the offering of a pure transmission capability over a communications path that is virtually transparent in terms of its interaction with customer supplied information

Enhanced services are services offered over common carrier transmission facilities which

^{10/} Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II), 77 F.C.C. 2d 384 (1980), recon., 84 F.C.C. 2d 50 (1981), further recon., 88 F.C.C. 2d 512 (1981), aff'd sub nom. Computer and Communications Industry Ass'n. v. FCC, 693 F.2d 198 (D.C. Cir. 1982), cert. denied, 461 U.S. 938 (1983), aff'd on second further recon., 56 Rad. Reg. 2d (P&F) 301 (1984).

employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information; or involve subscriber interaction with stored information.^{11/}

The Commission found in the Computer II proceeding that the drawing of a bright line distinction between regulated basic services and unregulated enhanced services is critical to the growth of the dynamic enhanced services industry.^{12/} It concluded that the enhanced/basic distinction not only removes the threat of regulation from the vibrant and competitive enhanced services marketplace, but it is one upon which business entities can rely in making investment and marketing decisions.^{13/}

In keeping with the Commission's Computer II decision, CompuServe consistently has operated as an unregulated provider of online, Internet access, and other value-added enhanced services, rather than as a regulated provider of basic common carrier services. Nothing in the 1996 Act indicates that Congress intended to change the unregulated status of service providers such as CompuServe by altering the Commission's longstanding basic/enhanced service regime. Indeed, if Congress

^{11/} Computer II, 77 F.C.C. 2d at 420-21.

^{12/} Id. at 422-23.

^{13/} Id. at 423.

had intended to make such a momentous change, surely it would have so indicated.

In fact, Congress expressly recognized that it is the unregulated status of enhanced service providers that has made possible the spectacular growth of innovative information services that the U.S. is experiencing today. New Section 230 of the Communications Act explicitly declares it to be "the policy of the United States . . . to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation. . . . "^{14/}

The Congressional policy that online and Internet access services be "unfettered by Federal or State regulation" logically can be implemented only by a determination that providers of such services are not "telecommunications carriers" subject to common carrier regulation under Section 3(49) of the Act. Congress, in fact, made such a determination in other provisions of the 1996 Act. First, in Section 230(e)(2), Congress defines "interactive computer service" in a way that encompasses both online services and Internet access services:

any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet. . . .

^{14/} Section 230(b)(2) (emphasis supplied).

Then, in Section 223(e)(6) Congress declares its intention not "to treat [providers of] interactive computer services as either common carriers or telecommunications carriers."

Finally, even apart from these explicit indications, the structure of the Act as a whole also indicates Congress's intent that the distinction between unregulated enhanced services and regulated telecommunications services be preserved. Throughout Section 254, Congress distinguishes between "telecommunications" and "information" services. For example, while subsection 254(b)(4) extends the potential universal service contribution requirement to all providers of "telecommunications," subsections 254(b)(2) and (b)(3) establish the goal of providing consumer access to "telecommunications and information" services. (Emphasis supplied.)

The distinction between telecommunications and information services upon which the Commission essentially has relied since the Computer II decision in refraining from regulating enhanced services also is incorporated into the new statutory definitions. "Information service" is defined under Section 3(41) as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications. . . ." This statutory definition of information service is essentially identical to that found in the

AT&T antitrust decree,^{15/} and the term "information services" has been recognized by both the Commission and the courts to be substantially equivalent to what the Commission historically has classified as unregulated enhanced services.^{16/} In formulating the statutory distinction between telecommunications and information services, Congress in effect has confirmed the continued viability of, and desirability for the maintenance of, the Commission's Computer II distinction between regulated providers of basic telecommunication services (who are required to contribute to universal service mechanisms) and unregulated providers of enhanced information services such as online and Internet access services (who are not subject to universal service contribution requirements).

IV. EVEN IF THE STATUTORY LANGUAGE PROVIDED THE COMMISSION WITH DISCRETION TO REQUIRE UNIVERSAL SERVICE CONTRIBUTIONS FROM ONLINE AND INTERNET ACCESS PROVIDERS -- WHICH IT DOES NOT -- SOUND PUBLIC POLICY REASONS WEIGH AGAINST SUCH AN EXERCISE OF DISCRETION

As discussed above, it would be unlawful for the Commission to classify online and Internet access service providers as "telecommunications carriers" that must contribute to universal service funding mechanisms or even as "other providers of interstate telecommunications" that the Commission

^{15/} United States v. American Tel. & Tel. Co., (Modified Final Judgment or "MFJ"), 552 F. Supp. 131, 229 (D.D.C. 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983).

^{16/} Amendment of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, 3 FCC Rcd 2631, 2633; MFJ, 552 F. Supp. at 178 n.198.

may require to contribute to universal service funding mechanisms.

Even assuming for the sake of argument that providers of online and Internet access services could be classified as "other providers of telecommunications" -- which they cannot be -- sound public policy reasons dictate that the Commission not exercise any discretion it arguably may have to subject providers of online and Internet access services to universal service contribution requirements. As Congress explicitly recognized under new Section 230(a)(1), "[t]he rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens." Imposing universal service contribution requirements on such services would thwart this advance by subjecting them to the threat of regulation, which the Commission previously has found -- and Congress now has found -- to be inimical to the continued rapid growth of those services.^{17/}

The Commission action which will best foster the continued expansion of new and innovative Internet and interactive computer services will be allowing the marketplace to operate freely, without additional regulatory burdens. Several public policy reasons support this conclusion. First, imposing federal universal service contribution requirements on online and Internet access services will make these services less affordable

^{17/} Computer II, 77 F.C.C. 2d at 423.

because providers likely will pass on at least some of the costs to end users. Second, any action the Commission takes to require enhanced service providers to subsidize basic telecommunications services likely will be seen as precedent by State and foreign authorities to do the same, perhaps at much higher levels of contribution. Multiple levels of universal service contribution requirements may deter entrepreneurs from entering the marketplace and may slow down the rapid pace of innovations that currently characterize the marketplace for interactive computer and Internet access services. Third, a Commission decision treating enhanced service providers as if they were regulated telecommunications carriers for universal service contribution purposes undoubtedly will have a precedential impact on other countries, an impact that appears inconsistent with the U.S. Government's longstanding position that international enhanced services should not be subject to regulation.

It also would be administratively impossible to formulate a nondiscriminatory universal service contribution requirement that could be fairly applied to all online service and Internet access providers. The FCC has no existing means to identify all the enhanced service providers potentially subject to contribution requirements. For example, in the vibrant and competitive free market for Internet access services, providers quickly enter and exit the market without regulatory intrusion or even notification. The Commission would violate the directive of Section 254(b)(4) requiring equitable and nondiscriminatory

contributions if it were to establish a system to enforce universal service contribution requirements only upon the mass-advertised, most well-known online and Internet access providers, while effectively exempting from such requirements less well-known providers which offer the same services.

The dynamism that characterizes the enhanced services marketplace also likely would be stifled by any Commission attempt to distinguish those enhanced services subject to universal service contribution requirements from those that are not. In response to such a Commission attempt, providers may seek artificially to restructure or tinker with their services in order to fall on one side of a regulatory line rather than on the other, thereby impeding their ability to respond fully to the marketplace. Moreover, if providers were required to implement a regulatory distinction in which some services were considered "telecommunications" while others were not, they would need to revamp their provisioning, marketing and billing structures -- which today almost always offer end users maximum flexibility through a package of bundled services at a single flat rate. The operating and applications systems and other resources needed for such a restructuring would increase dramatically the costs of service to end users and would inhibit the free play of competitive marketplace forces.

Finally, imposition of a universal service contribution requirement on enhanced service providers simply would not be fair and equitable. Because providers of online and Internet

access services utilize underlying basic communication services as a necessary component of their enhanced services, they already will have made a contribution to universal service through the rates they pay for the underlying basic services. Requiring a second contribution from online and Internet access service providers would be duplicative and unreasonably burdensome. The second contribution to be paid by an information service provider necessarily would be passed on to the end user in the form of higher rates, and this would certainly have a dampening impact on the burgeoning information services marketplace. Most importantly, it also would be directly contrary to the expressed policy of Congress to make interactive computer and Internet access services available on a widespread basis.

V. CONCLUSION

For the foregoing reasons, the Joint Board should make recommendations and the Commission should take actions consistent with the views expressed herein.

Respectfully submitted,

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April 12, 1996

CERTIFICATE OF SERVICE

I, Marcia Towne Devens, do hereby certify that true and correct copies of the foregoing document, "COMMENTS OF COMPUSERVE INCORPORATED," were served by first-class U.S. Mail, postage prepaid, this 12th day of April, 1996, on the following:

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