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April 26, 1996

Mr. William F. Caton, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Rm. 222  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

**RE: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, Notice of Proposed Rulemaking, CC Docket 96-61**

Dear Mr. Caton:

Attached please find one (1) read-only diskette containing the contents of USTA's initial comments in the above-referenced proceeding. The comments are contained in a single files: "96-61.two." This diskette is submitted pursuant to paragraph 117 of the above-referenced Notice.

Should you have any questions, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "C.D.C.", with a long horizontal stroke extending to the right.

Charles D. Cosson, USTA Attorney

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

In the Matter of: )  
)  
Policy and Rules Concerning the )  
Interstate, Interexchange Marketplace )  
as a Non-Dominant Carrier )  
)  
Implementation of Section 254(g) )  
of the Communications Act of 1934, )  
as amended )

CC Docket No. 96-61

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COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION  
on Price Collusion and CPE Bundling

SUMMARY OF COMMENTS

USTA notes that there is record evidence suggesting that tacit price coordination has been occurring in the interexchange market. USTA agrees with the Commission that the best solution to this problem is to encourage competitive entry by other carriers, including the Bell Operating Companies. The Commission should therefore move quickly to eliminate unnecessary regulation of competitive new entrants into the interexchange market.

USTA agrees with the Commission that the interexchange market is sufficiently competitive to permit interexchange carriers to offer packages of CPE and interstate, interexchange services. The ability to offer such packages will enhance the ability of competitors to entice customers to switch carriers. However, the Commission should also require that interexchange carriers offer separately unbundled interstate, interexchange services, on a nondiscriminatory basis. Such a requirement would increase consumer choice and preserve opportunities for resale. Such a requirement would also ensure that bundled packages are not used to undermine enforcement of the geographic rate averaging rules.

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

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Implementation of Section 254(g) )  
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as amended )

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**COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION  
on Price Collusion and CPE Bundling**

The United States Telephone Association (USTA) respectfully submits these additional comments in response to the Federal Communications Commission's (Commission)'s Notice of Proposed Rulemaking dated March 25, 1996.<sup>1</sup> USTA is the principal trade association of the local exchange carrier industry. Its members provide a wide variety of telecommunications services, including interstate, interexchange service. USTA filed comments on the geographic rate averaging, market definition and separation requirement issues raised in Sections III, IV, and V of the Notice, on April 19, 1996.

**I. The Commission Should Encourage New Entry to Mitigate Tacit Price Coordination in the Interexchange Market**

The Commission notes that there is evidence in the record that tacit price coordination has been occurring among the larger interexchange carriers. The Notice notes that the 1996 Act provides the best solution to any problem of tacit price coordination - allowing for competitive

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<sup>1</sup>In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket No. 96-61, FCC 96-123, Notice of Proposed Rulemaking (released March 25, 1996)("Notice").

entry in the interstate interexchange market by other carriers, including the Bell Operating Companies (BOCs). Notice, para. 81.

USTA agrees. In order to enhance its ability to rely on competitive pressures to control interexchange rates, the Commission should make every effort available to encourage the entry of new competitors. Eliminating carriers' ability to ascertain their competitors' rates from tariffs filed at the Commission may assist in reducing tacit price coordination, see Notice, para. 81. However, only effective competition will sufficiently reduce the incentives to engage in coordinated pricing behavior. Consequently, the Commission should move quickly to eliminate unnecessary regulation of competitive new entrants into the interexchange market, including local exchange carriers.

**II. The Commission Should Adopt Its Tentative Conclusion Regarding Packaging of CPE and Interexchange Services, and Require that Carriers Continue to Offer Unbundled Interexchange Services on a Nondiscriminatory Basis**

The Notice also notes that the rule prohibiting bundling or tying of CPE with interstate, interexchange services was intended to preclude anticompetitive results, e.g., forcing customers to purchase CPE in order to obtain desired interexchange services, restricting customer choice. Notice, para. 84. However, the Notice now notes that the CPE market is fully competitive, and that the business interexchange services market is "substantially competitive." Notice, para. 86. Thus, any interexchange carrier who required purchases of CPE as a condition of obtaining interexchange services would not have sufficient market power in order to enforce that condition. The Commission therefore tentatively concludes that interexchange carriers should be allowed to bundle CPE with interstate, interexchange services as a competitive offering. Notice, para. 88. USTA supports this tentative conclusion.

LECs who are competitive new entrants into the interexchange market will necessarily be required to develop competitive prices, competitive quality, and competitive service offerings in order to entice customers to switch carriers. As the Commission notes, provision of such sales

packages of services and CPE can enable more effective competition. Notice, para. 85.

The Commission should also require that interexchange carriers offer separately unbundled interstate, interexchange services, on a nondiscriminatory basis. Notice, para. 89. Such a requirement would generally increase consumer choice. In particular, it would preserve opportunities for competitors to utilize their own equipment to provide competitive services and CPE/service packages through resale, or to provide resold services to customers who already have their own CPE. Such a requirement would also ensure that interexchange providers do not undermine enforcement of the geographic rate averaging rules. See also Comments of the Rural Telephone Coalition, CC Docket 96-61, April 19, 1996, at 15 (bundled service offerings may be used improperly to avoid analysis of whether their interexchange service rates are geographically averaged).

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

BY 

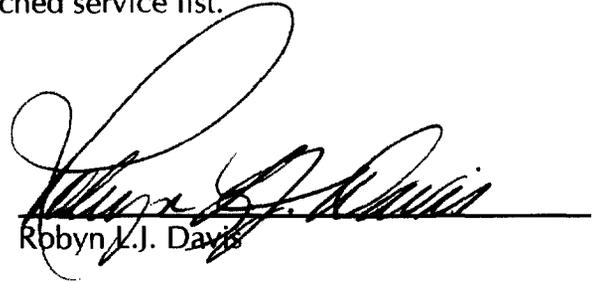
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April 25, 1996

**CERTIFICATE OF SERVICE**

I, Robyn L.J. Davis, do certify that on April 25, 1996 comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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96-61  
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Attachment A

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This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

o Microfilm, microform, certain photographs or videotape.

o Other materials which, for one reason or another, could not be scanned into the RIPS system.

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