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May 8, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Re: *RM 8775, The Provision of Interstate and International Interexchange Telecommunications Service via the "Internet" by Non-Tariffed, Uncertified Entities*

America's Carriers Telecommunications Association ("ACTA") Petitioner

Petition for Declaratory Ruling, Special Relief, and Institution of Rulemaking Against:

VocalTec, Inc.; Internet Telephone Company; Third Planet Publishing, Inc.; Camelot Corporation; Quarterdeck Corporation; and Other Providers of Non-Tariffed, and Uncertified Interexchange Telecommunications Services Respondents.

On behalf of Pacific Bell and Nevada Bell on ACTA'S Petition, please find enclosed an original and six copies of their "Comments" in the above referenced proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Gina Harrison (SAL)

No. of Copies rec'd 0+4
List ABCDE

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

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In the Matter of	)	
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The Provision of Interstate and International Interexchange Telecommunications Service via the "Internet" by Non-Tariffed, Uncertified Entities	)	RM 8775
	)	
America's Carriers Telecommunication Association ("ACTA"), Petitioner	)	
	)	
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	)	
VocalTec, Inc; Internet Telephone Company; Third Planet Publishing, Inc.; Camelot Corporation; Quarterdeck Corporation; and Other Providers of Non-tariffed, and Uncertified Interexchange Telecommunications Services, Respondents.	)	

COMMENTS BY PACIFIC BELL AND NEVADA BELL ON ACTA'S PETITION

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SUMMARY

ACTA has raised important issues. Its petition, however, is focused on the wrong parties and on the wrong solution. Even-handed regulation is essential, but more regulation will not bring the level playing field sought by ACTA or address other problems related to services offered over the Internet "at virtually no charge."

The ESP exemption from access charges, not the exclusion from regulation, primarily creates the lower cost structure for ESPs and allows them to provide virtually free access to Internet and On Line Services. Thus, this "temporary" exemption, adopted in 1983, creates the unfair competition that concerns ACTA. For the mass market of residential customers and small businesses without LANs who use dial-up access, ESPs use the exemption to purchase access out of local exchange tariffs (e.g., Measured Business lines) for both interstate and intrastate traffic. Although ESPs pay the business subscriber line charge, they generally use these lines only to terminate calls and, thus, do not pay for any usage, since local business lines only measure originating usage. This exemption from usage charges gives ESPs an advantage over IXCs for the transport of all types of services, and the Internet is providing tremendous opportunities to use that advantage.

The Internet and On Line Services promise to make it easier, cheaper, and faster for people to communicate with each other and with the vast storehouses of knowledge in schools, universities, libraries, and other databases. Like most technological advances, however, the on-line telecommunications explosion has had some unforeseen consequences. One of these is the huge increase in demand on networks

like ours. For instance, to avoid the inconvenience of dialing up and connecting to their (often busy) Internet Provider, many end users who have flat-rate local service simply remain "nailed up" 24 hours a day and essentially use their switched access lines as dedicated connections. This ties up significant amounts of switching and trunk capacity and strains networks designed for intermittent calling, without providing proportionate revenues to the LECs. Campaigns to stimulate free usage of the Internet, such as that AT&T announced February 27, 1996, exacerbate the situation. Revenues generated from end users under current rate structures are unlikely to generate the money needed to pay for the upgrades and capacity needed to sustain service levels, and are certainly not enough to fund future multimedia bandwidth requirements. Revenues from access charges are needed to protect the integrity of the public switched telephone network and to support universal service, both of which are potentially placed at risk by the ESP exemption.

In 1991, the Commission justified retaining the ESP exemption in order to avoid "disrupt[ing] the enhanced services industry during a time of rapid transition." Rapid transition appears to be permanent in our industry and cannot justify discrimination. Moreover, the ESP exemption certainly can no longer be justified as a way of promoting an "infant" industry. With AT&T offering free Internet access to its 80 million customers and "voice over the Internet" increasing in availability and popularity, it is becoming obvious that the Internet will carry significant amounts of traffic in direct competition with traditional voice, fax, and data transmission. Thus, ACTA and other carriers have good reason to be concerned, and the Commission should begin a rulemaking to remove or phase-out the ESP exemption.

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COMMENTS BY PACIFIC BELL AND NEVADA BELL ON ACTA'S PETITION

I. INTRODUCTION

In its Petition, ACTA points out that voice calls can be completed by use of the Internet "at virtually no charge for the call."[1] ACTA explains that certain entities involved with these calls do not face the regulatory requirements faced by ACTA's IXC members, including obtaining authority to offer service, tariffing services, paying fees to

[1] ACTA, p. i.

the Commission, and collecting charges from customers that support public interest goals.[2] ACTA concludes, "Continuing to allow such entities to operate without complying with or being subject to the same legal and regulatory requirements as ACTA carrier members threatens the continued viability of ACTA's members and their ability to serve the public and acquit their public interest obligations under federal and state laws."[3]

In response to these problems, ACTA has filed a Petition for Declaratory Ruling requesting that the Commission confirm "its authority over interstate and international telecommunications services using the Internet."[4] ACTA then asks the Commission to "order the Respondents to immediately stop their unauthorized provisioning of telecommunications services pending their compliance with 47 U.S.C. § 203 [tariffing] and 214 [authorization for a new or extended line] and in order to give the Commission time for [an] appropriate rulemaking."[5] Finally, ACTA asks the Commission "to institute [a] rulemaking to govern the use of the Internet for providing telecommunications services."[6]

ACTA has raised important issues. ACTA's petition, however, is focused on the wrong parties and on the wrong solution. Although even-handed regulation is essential, more regulation will not bring the level playing field sought by ACTA or address other problems related to services offered in connection with the Internet "at virtually no

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[2] Id. at 2.
[3] Id. at 3.
[4] Id. at i.
[5] Id.
[6] Id.

charge." Some providers are able to offer virtually free transport services because their artificially low cost structures do not include charges that other providers pay to use the LECs' networks for origination and termination of interstate toll service.[7] To correct this uneconomic and unfair situation, the Commission should ensure that all interstate users of access services pay the tariffed charges for those services, by removing the "temporary" ESP exemption from access charges that has been in place since 1983.

II. ACTA HAS FOCUSED ITS PETITION ON THE WRONG PARTIES

Although ACTA's requests are broad, its specific focus is narrow. All the named Respondents to ACTA's Petition are software providers.[8] ACTA states, "This petition concerns a new technology: a computer software product that enables a computer with Internet access to be used as a long distance telephone, carrying voice transmissions, at virtually no charge for the call. ACTA submits that the providers of this software are telecommunications carriers and, as such, should be subject to FCC regulation like all telecommunications carriers."[9] ACTA supports this conclusion by stating that the Respondent software providers, as "purveyors of Internet long distance services," are "interstate telecommunications carriers, subject to federal regulation" pursuant to the Telecommunications Act of 1996.[10]

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[7] The ESP exemption from interstate access charges also creates a de facto intrastate exemption because, once ESPs can use exchange service business lines, they have both intrastate and interstate access capability.

[8] See ACTA, pp. 3, 10, and Attachment 1

[9] Id. at i.

[10] Id. at 6.

It is not at all clear, however, that the Respondent software providers are actually telecommunications carriers. The Telecommunications Act of 1996 defines a "telecommunications carrier" as "any provider of telecommunications services" other than an aggregator.[11] A "telecommunications service," in turn, is the "offering...for a fee directly to the public..." of "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."[12]

It does not appear that the Respondents are providing "transmission" for communications over the Internet, or that the information is unchanged in form by the Respondents. The Respondents supply software to end users. The software digitizes and packetizes voice for transmission over the Internet. Software in CPE at the other end of the communication reassembles the packets and converts the information back to voice.[13]

Additionally, according to the articles that ACTA included with its Petition, Respondent VocalTec "connects one computer caller to another through one of 15 computer 'servers' " in order to create "a kind of audio 'chat room,' in which users can see on their screen who is on-line and choose to call or receive calls from anyone in the group."[14]

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[11] 47 U.S.C. § 153(44).

[12] 47 U.S.C. § 153(43) & (46).

[13] Parties at both ends must have the same software installed on their computers. Microsoft and Intel, however, are reportedly "teaming up to turn the Internet into a telephone system" based on "a common platform that will let different kinds of computer systems communicate over the Internet." "Tech Giants Push Net Phone System," San Francisco Chronicle, March 12, 1996, p. C1.

[14] ACTA, Attachment 1, "Computers Can Become Telephones."

It appears that the Respondents are providers of Customer Premises Equipment ("CPE") and in some cases Information Services. CPE is "equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications."[15] The Respondents supply software for the end users' personal computers, which are CPE that originate, route, or terminate telecommunications. Information service "means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications...."[16] Apparently, at least one of the Respondents has file servers that store, transform, and make available information via telecommunications.

It does not appear, however, that the Respondents provide the transmission services themselves. ACTA points out that the end users must subscribe to separate Internet Access Providers which connect the end users' computers to the Internet.[17] Internet Access Providers utilize an overlay structure consisting of dedicated lines, fast packet services, multiplexors, routers, and exchange business lines. Internet and On Line Service Providers, often in conjunction with Value Added Networks ("VANs"),[18] provide these access networks, which allow PCs to connect to each other and trade voice files. These providers do not, however, provide any voice-related utility, which is the subject of ACTA's petition.

Even if some of the Respondents, now or in the future, provide their own transmission service, they would be regulated as common carriers "only to the extent

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[15] 47 U.S.C. § 153(14).
[16] 47 U.S.C. § 153(20).
[17] ACTA, p. 3.
[18] E.g., MCI BT-Tymnet and SprintNet.

that they are engaged in providing telecommunications services."[19] Their provision of CPE and Information Services related to voice utility would remain unregulated.

Therefore, ACTA is actually requesting that the Commission regulate CPE and Information Service Providers. This would be a major step backward, increasing regulation at the very time that Congress and the Commission are attempting to decrease regulation and rely on competition.

Moreover, regulation of CPE and Information Services would not address the cause of the unfair competition identified by ACTA. ACTA correctly explains that unfair competition is caused by lack of regulatory parity between like service providers.[20] ACTA, however, does not propose solutions that would rectify the asymmetrical regulation. Asymmetry is not caused by a failure to regulate the Respondents' provision of CPE and Information Services, products and services that are unlike the regulated telecommunications services provided by ACTA's IXC members. Rather, asymmetry is caused by failing to regulate many transmission service providers that interconnect with CPE and Information Services, while at the same time regulating IXCs. In addition, even this asymmetrical regulation is not the root cause of the problem that ACTA identifies. As we discuss in the following parts of these Comments, unfair competition and other problems are caused by allowing ESPs an exemption from the access charges that IXCs pay. By including as ESPs those resellers that bundle their transmission services with enhanced services, the Commission both locks in

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[19] 47 U.S.C. § 153(44).
[20] See, e.g., ACTA, pp. i, 4.

asymmetrical regulation and, more importantly, expands the use of the ESP exemption. The Commission's treatment of VANs demonstrates both of these effects.

VAN service providers largely provide transmission services[21] and often transport Internet Access and On Line Services. The Commission treats VANs entirely as ESPs and excludes them from regulation based on the "contamination theory:"

> Under the contamination theory, VANs that offer enhanced protocol processing services in conjunction with basic transmission services have historically been treated as unregulated enhanced service providers. Under this theory, the enhanced component of their offerings is viewed as 'contaminating' the basic component, and as a result, the entire offering is considered enhanced.[22]

In Computer III, the Commission reaffirmed its treatment of protocol processing (with three exceptions) as an enhanced service, largely because it wanted to retain the enhanced component of VAN services and, thus, retain their non-carrier status and keep them out of Title II regulation via the contamination theory.[23]

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[21] VANs purchase transmission facilities (i.e., the transmission lines linking switches together) from facilities-owning carriers and resell them packaged with packet and protocol conversion services. See IDCMA Petition For Declaratory Ruling That AT&T's InterSpan Frame Relay Service Is A Basic Service, DA 95-2190, Memorandum Opinion and Order, released October 18, 1995, n. 6 ("Frame Relay Order").

[22] Id. at para. 18.

[23] See id. at para. 17; Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Phase II, Report and Order, 2 FCC Rcd 3072, 3080, para. 57, (1987) ("Computer III Phase II Order") recon., 3 FCC Rcd 1150 (1988), further recon., 4 FCC Rcd 5927 (1989), rev'd on other grounds sub nom., California v. FCC, 905 F.2d 1217 (9th Cir. 1990), on remand, 6 FCC Rcd 7571 (1991), vacated in part and remanded, California v. FCC, 39 F.3d 919 (9th Cir. 1994).

Excluding VANs, but not other resellers and IXCs, from regulation creates the forms of asymmetrical regulation identified by ACTA.[24] As we discuss below, however, this lack of regulation is not the root cause of the principal problem identified by ACTA.

III. ACTA'S PETITION DOES NOT ADDRESS THE ROOT CAUSE OF THE UNFAIR COMPETITION THAT ACTA IDENTIFIES -- THE ESP EXEMPTION

As the Commission has explained, its conclusion in Computer III "that protocol processing would continue to be treated as an enhanced service...had the effect of continuing to exempt from access charges a major class of service providers -- the VANs...."[25] Moreover, the exemption applies not just to VANs but to all ESPs, including also Internet Access Providers, On Line Service Providers, Bulletin Board Providers, Voice Mail Providers, and others.[26]

The ESP exemption from access charges, not the exclusion from regulation, primarily creates the lower cost structure for ESPs and allows them to provide access to Internet and On Line Services at "virtually no charge." Thus, this exemption actually creates the unfair competition that concerns ACTA. Large IXCs are increasingly taking advantage of the ESP exemption via their own VANs[27] and offerings of Internet Access

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[24] See ACTA, p. 2.

[25] Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, CC Docket No. 87-215, Notice of Proposed Rulemaking, 2 FCC Rcd 4305, n. 3.

[26] The exemption, of course, applies to ESPs owned by any entities, including those owned by IXCs and by LECs such as us.

[27] E.g., SprintNet provides network services for America On Line.

Services.[28] Removing the ESP exemption would eliminate the current unfair advantage in favor of Internet and On Line Services, and the market would self-regulate via competition.

The uneven playing field that ACTA identifies includes more than the voice services that it describes. Because of the disparity in cost structures caused by the ESP exemption, ESPs also have an unfair advantage over IXCs, which pay access charges, when ESPs carry email, fax, and video applications for the mass market of small and medium-sized customers.

Large business customers generally access ESPs by using Frame Relay or other high-speed packetized data or private line services for which interstate switched access charges are not applicable. For the mass market of residential customers and small businesses without LANs[29] who use dial-up access, however, the ESPs use the ESP exemption to purchase access out of the local exchange tariffs (e.g., Measured Business lines) for both interstate and intrastate traffic. Although ESPs pay the business subscriber line charge, they generally use these lines only to terminate calls and, thus, do not pay for any usage, since local business lines only measure originating usage. This exemption from usage charges gives ESPs an advantage over IXCs for the transport of all types of services.

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[28] On February 27, 1996, AT&T announced that it would offer its telephone customers five hours of free Internet access each month for a year. Jared Sandburg, "AT&T Launches Internet service, Offers Long-Distance Customers Free Hours," New York Times, February 28, 1996, Section B, p. 4.

[29] Small businesses without LANs are a very rapidly growing segment of paid connections to the Internet.

IV. THE ESP EXEMPTION CREATES OTHER SERIOUS RISKS FOR OUR INDUSTRY AND THE PUBLIC

Internet-related problems go beyond the unfair competition described by ACTA. Two other major types of harm are likely to occur if the Commission does not remove the exemption:

- Implicit support provided by access charges could be lost, potentially placing universal service at risk.
- A tremendous amount of new traffic would enter the telephone networks, especially if a significant number of users leave their switched circuit connections up all day, potentially placing the integrity of the public switched network at risk.

These harms to the public would be particularly unfortunate because they would accompany developments that should be very beneficial. The fast growth of the Internet and of On Line Services, such as America On Line, has been remarkable. This growth should be a very positive development, both for our industry and for our country. The Internet and On Line Services promise to make it easier, cheaper, and faster for people to communicate with each other and with the vast storehouses of knowledge in schools, universities, libraries, and other databases.

Like most technological advances, however, the on-line data explosion has had some unforeseen consequences. One of these is the extent of the increased demand on networks like ours.

Using the ESP exemption, service providers are establishing service nodes in large multi-line hunt groups (anywhere from 10 to 500 lines per node) in locations

where they will be within the local call radius of their target market. For example, in one residential neighborhood near San Francisco which has historically seen low growth in access lines, we recently experienced high blockage of interoffice calls in the late afternoon and throughout the evening. A service provider had established a large hunt group in that San Francisco area office, and its customers within a 12 mile radius (the local calling area) were calling in to access enhanced services. To alleviate the blockage, we added interoffice trunking well beyond that which was needed for the normal growth in voice traffic. Yet, because of the ESP exemption, no additional usage revenue resulted from providing these additional facilities.

We believe that on-line data calls, which typically last much longer than voice calls, could comprise up to 25% of the traffic Pacific Bell will carry by the end of the decade. Campaigns to stimulate free usage of the Internet, such as that AT&T announced February 27, 1996, only exacerbate the situation. Revenues generated from end users under current rate structures are unlikely to generate the money needed to pay for the upgrades and capacity needed to sustain service levels, and are certainly not enough to fund future multimedia bandwidth requirements.

In fact, our local flat-rate residential subscribers pay us nothing extra for unlimited local calling, and thus have no incentive to restrict their Internet and On Line Service usage. To avoid the inconvenience of dialing up and connecting to their (often busy) Internet Provider, many end users simply remain "nailed up" 24 hours a day.[30]

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[30] This problem will be further aggravated if the Internet Access Providers go forward with plans to market services that will automatically display up-to-the-minute news and financial information on the user's computer screen whenever the user is

Demand for second phone lines will likely increase as a result of this usage, but perpetual Internet Access Provider-connected calls essentially allow the end users to use their switched access lines as dedicated connections. This ties up significant amounts of switching and trunk capacity and strains networks designed for intermittent calling, all without providing proportionate revenues to the LEC.

We believe that the ESP exemption not only has created these problems, but also has led to inferior service provided by ESPs to their end users in the form of high blocking. This is due to the ESPs' inability to forecast demand and provision enough "modem closets" that support their multi-line hunt groups. The ESP exemption removes the ESPs' incentive to seek more robust access service solutions that would meet their needs better than existing local exchange or access services.[31]

V. THE ESP EXEMPTION HAS LONG OUTLIVED ITS JUSTIFICATION AND NOW CREATES THE UNREASONABLE DISCRIMINATION THAT THE COMMISSION SOUGHT TO REMOVE WHEN IT ADOPTED ITS ACCESS CHARGE PLAN

In 1983, the Commission adopted its access charge plan for the setting of terms and conditions of interstate access "to remedy discrimination and preferences that

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connected to the Internet Access Provider. See John Markoff, "Bell Companies Assail AT&T's Internet Plan," New York Times, February 29, 1996, p. D5.

[31] In order to take advantage of the ESP exemption and use measured business lines, ESPs must have a service presence in each local area. This requires them to size many separate local nodes for service, rather than taking advantage of load shifting that could be available with a single access service covering a large market area.

violate Section 202(a) of the Communications Act."[32] The Commission "concluded that it is necessary and desirable to establish access charges in lieu of existing access compensation arrangements in order to eliminate existing access compensation disparities that might arise if a variety of access compensation mechanisms were used in the future."[33] At that time, AT&T paid full charges for interstate access; other common carriers paid discounted Exchange Network For Interstate Access ("ENFIA") rates; private line users did not bear any of the costs attributable to their interstate use of the exchange.[34] The Commission found that these unjustified disparities in charges for access constituted unreasonable discrimination.[35]

The Commission did not create the ESP exemption in order to lock in one form of disparate treatment. Rather, the exemption was a part of a set of "transitional" rules designed to avoid "rate shock" by phasing-in access charges for interexchange resellers and ESPs, two classes of providers who had depended on low-priced business lines to obtain local access.[36] Moreover, it was as a "graduated transition,"

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[32] MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, Third Report and Order, 93 FCC 2d 241, 265 (1983) ("Access Order"), modified on reconsideration, 97 FCC 2d 834 (1984) ("Access Reconsideration Order"), aff'd in principal part and remanded in part, National Ass'n of Regulatory Util. Comm'rs v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985), 110 FCC 2d 1222 (1985), further reconsideration denied, 102 FCC 2d 849 (1985). See also Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I.

[33] Access Order, p. 255. In addition to "eliminating discrimination or preferences," the Commission's objectives for the access charge plan were "promoting efficient network utilization generally, and discouraging uneconomic bypass," and maintaining universal service. Id. at 266.

[34] Id.

[35] Id. at 258.

[36] See Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, CC Docket No. 87-215, Notice of Proposed Rule Making, 2 FCC Rcd 4305 (1987) ("ESP Exemption NPRM").

not as a permanent exemption, that the D.C. Circuit upheld the ESP exemption from allegations that it created unreasonable discrimination.[37] Although ordinary resellers soon lost their access charge exemption,[38] ESPs maintained theirs. In the face of arguments by ESPs that their's was an "infant industry," the Commission initially reasoned that the impending introduction of Open Network Architecture ("ONA") requirements, BOC entry into the information services business pursuant to modification of the MFJ, and the relatively fragile and volatile state of the enhanced services industry justified continuing the exemption.[39] Even after ONA was in place,[40] the Commission continued to justify the access charge exemption as appropriate to avoid "disrupt[ing] the enhanced services industry during a time of rapid transition."[41]

Rapid transition appears to be a permanent way of life for our industry and cannot justify discrimination that is otherwise unreasonable. Moreover, the ESP exemption certainly can no longer be justified as a way of promoting a new, developing,

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[37] NARUC v. FCC, 737 F.2d 1095, 1137 (D.C. Cir. 1984).

[38] See ESP Exemption NPRM, p. 4305.

[39] Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, CC Docket No. 87-215, Order, 3 FCC Rcd 2631 (1988).

[40] Because of the ESP exemption, ESPs purchase few interstate ONA services, preferring the lower priced intrastate services that they can purchase under exchange tariffs.

[41] Amendments of Section 64.702 of the Commission's Rules relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 87-313, Report and Order, 6 FCC Rcd 4524, 4535, para. 60 (1991).

"infant" industry.[42] With AT&T offering free Internet access to its 80 million customers[43] and "voice over the Internet" increasing in availability and popularity,[44] it is becoming obvious that the Internet will carry significant amounts of traffic in direct competition with traditional voice, fax, and data transmission. Thus, ACTA and other carriers have good reason to be concerned. The ESP policies look increasingly like loopholes in the Commission's rules governing interexchange services.

This disparate treatment no longer makes sense. It skews investment decisions - - both LECs' and those of the information services industry. Once a call is on the public switched network it is handled the same way whether it is via a telephone or a modem, or is voice or data. We must move away from charging similarly situated customers different prices for the same access service, unless there is a compelling,

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[42] When the Commission initially exempted ESPs from paying access charges, it concluded that if it were "to impose full carrier usage charges on enhanced service providers,...these entities would experience huge increases in their costs of operation which could affect their viability." MTS and WATS Market Structure, CC Docket No. 78-72, Memorandum Opinion and Order, 97 FCC.2d 682, 715 (1983). The ESPs being protected include VANs, which now include such major corporations as BT/MCI Tymnet and SprintNet. In 1994, VAN services were estimated to be growing at a rate of approximately 15 percent annually, and the VAN service market for 1993 was estimated at $12 billion worldwide and $3.4 billion in the United States. Data Channels, January 31, 1994. Since that time, On Line Services have exploded.

[43] John Markoff, "Bell Companies Assail AT&T's Internet Plan," New York Times, February 29, 1996, p. D1. "AT&T says 500,000 Want Its Internet Service," San Francisco Chronicle, April 27, 1996, p. B1.

[44] See Mike Mills, "Freebie-Heebie-Jeebies: New Long-Distance Calling Via The Internet Scares Small Phone firms," Washington Post, March 8, 1996, p. F1; John W. Verity, "Try Beating These Long-Distance Rates," Business Week, April 22, 1996, pp. 131-2; David Einstein, "Netscape Software Helps Make Talk Cheap," San Francisco Chronicle, April 27, 1996, p. A1; B.A. Nilsson, "Internet Phone - - Free Long Distance," Computer Life, April 1996, pp. 129-33.

explicit social reason (such as Universal Service) or a cost-based reason for doing so. There is no such justification today for the ESP exemption.

VI. CONCLUSION

For all the above reasons, the Commission should consider ACTA's Petition in the broader context of the need to remove the ESP exemption from interstate access charges. The Commission should begin a rulemaking to remove or phase-out the ESP exemption.

Respectfully submitted,

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NEVADA BELL

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Date: May 8, 1996
0135123.01

CERTIFICATE OF SERVICE

I, L. N. Noorderbrook, hereby certify that a copy of the foregoing "**Comments By Pacific Bell and Nevada Bell On ACTA's Petition**" was served by first-class United States mail, postage prepaid, upon the party appearing below on this 8th day of May, 1996.

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