



Consumer Federation of America

August 16, 1996

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC
Docket No. 96-91

Dear Chairman Hundt:

The Consumer Federation of America ("CFA") wishes to express its opposition to the Commission's proposal to allow interexchange carriers to bundle customer premises equipment ("CPE") with interstate, interexchange services.

Since its adoption in 1980, the CPE unbundling rule has provided consumers with significant benefits. It is due to this rule that consumers now have an opportunity to select virtually endless types of CPE to meet their specific needs, instead of being forced to purchase whatever equipment the carrier decided to make available with a particular service offering.

CFA believes that elimination of the unbundling rule, just as companies are about to compete to be the first to offer one-stop-shopping for a variety of communications services, could expose consumers to some of the same abuses that marked the industry before 1980. Until all communications markets, including the local exchange market, are fully competitive the unbundling rules should remain in place. In addition, in all cases, companies should be expressly prohibited from preventing or limiting consumers' use of the CPE of their choice.

Congress clearly recognized the value of strong unbundling rules. Section 304 of the Telecommunications Act of 1994 in essence supports the current unbundling policy by extending the principle to providers of multichannel video programming systems. The Commission should not now retreat from this pro-consumer policy.

CFA urges the Commission to retain the requirement that all carriers provide customer premises equipment on an unbundled basis. We would encourage review of the policy when all sectors of the communications marketplace are fully competitive.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Bradley Stillman', with a long horizontal flourish extending to the right.

Bradley Stillman
Telecommunications Policy Director

cc Commissioner Chong
Commissioner Ness
Commissioner Quello
Gina Keeney



**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

APR 21 1996

In the Matter of)
)
)
Policy and Rules Concerning the) CC Docket No. 96- 61
Interstate, Interexchange Marketplace)
)
Implementation of Section 254(g) of the)
Communications Act of 1934, as amended)

FCC 96-123

CC Docket No. 96- 61

**COMMENTS OF THE
ALABAMA PUBLIC SERVICE COMMISSION**

**Mary E. Newmeyer,
Federal Affairs Adviser**

100 N. Union Street
P.O. Box 991
Montgomery, Alabama 36101

(334) 242-5025

April 18, 1996

D. TACIT PRICE COORDINATION

The NPRM stated in paragraph 81 that by allowing for competitive entry into the interstate interexchange market by facilities based BOCs and others, the 1996 Act provides the best solution to tacit price coordination. However, the history of the interexchange market since divestiture provides evidence that true interexchange competition does not currently exist.

There are over 500 toll carriers in the United States. As of the third quarter of 1995, AT&T collected 56 percent; MCI collected 17.9 percent, and Sprint collected 8.5 percent of the toll revenues in the United States. These three companies accounted for over 80 percent of the toll market share for the entire United States. Thus, with nearly twelve years of competition three carriers control over 80 percent of the toll market. The other 500 carriers account for only 17.6 percent of the toll revenues for the entire United States.

The entry of the BOCs will not ensure competition nor will it provide a solution to tacit price coordination. The power over the telecommunications market wielded by the BOCs may reduce the amount of competition in the interexchange market by driving smaller carriers out of the market. In fact, the fates of AT&T, MCI, and Sprint may be jeopardized by the entry of the BOCs into this market.

Thus, the threat of price coordination and price discrimination may well be greater after the entry of the BOCs into the interexchange market. With this increased threat, a mandatory detariffing scheme is not only imprudent but also may facilitate price discrimination by failure of the regulators to recognize such discrimination due to insufficient information.

E. BUNDLING OF CUSTOMER PREMISE EQUIPMENT

In 1980 the Commission adopted a rule prohibiting common carriers from bundling the

provision of customer premises equipment (CPE) with the provision of common carriers telecommunications services⁵. The Commission concluded that the bundling of telecommunications services with CPE could force customers to purchase unwanted CPE in order to obtain necessary transmission services, thus, restricting customers' choices. For these very reasons bundling CPE with telecommunications services is not justifiable.

We believe that any savings in transaction costs to customers by bundling CPE is more than offset by the lack of proper pricing information. The intent of unbundling was to send a clear signal to the customer regarding the prices of goods and services. To bundle these goods and services will confuse the customer about the appropriate prices for these goods and services. The existence of competition alone will not clarify this signal if none of the competitors is required to unbundle goods and services. We see no benefit in relaxing the unbundling requirement; however, we do see the opportunity for price discrimination and loss of choices for the consumer if carriers are allowed to bundle CPE and interexchange services.

As competition in interexchange and exchange services increases, there is even a greater need to maintain the unbundling of CPE and service. The consumer can not make an informed decision about what service or provider to use when they can not get the information as to the cost of the unbundled elements of these packaged offers. This frustration already exists for informed consumers in the cellular market who want to compare the costs of services and CPE separately and cannot get prices quoted for each element separately by some service providers.

We do not believe that the entry of the BOCs into the market for interexchange services will substantially alter the impact of unbundling CPE. The fact remains that the price signal sent through

⁵ 47 C.F.R. Section 64.702 (e)

unbundling is understandable as opposed to an easily misunderstood signal through bundling of goods and services.

The same basis that applies to the requirements in the 1996 Act to offer interconnection service elements on an unbundled basis applies to the issue of unbundling CPE. The buyer should not have to buy goods or services he does not want or need in order to get either the good or service he wants. The lack of a requirement to offer CPE and interexchange service on an unbundled basis will harm competition and consumers choices not promote them.

We believe that the intent of the 1996 Act is to retain those mechanisms which have promoted competition in the interexchange market not to regress based upon the assumption that competition exists and those mechanisms are no longer useful.

III. Conclusion

The Alabama PSC offers the above comments on issues raised in the NPRM. We support the growth of competition in the interexchange market and other telecommunication markets, but we recognize that competition takes time to develop. We believe that continued oversight and monitoring by regulators is necessary through a transition period to allow competition to develop. Removing requirements too soon will be more of a deterrent to competition than an incentive.

Respectfully submitted,

Mary E. Newmeyer
Alabama Public Service Commission
P.O. Box 991
Montgomery, Alabama 36101
(334) 242-5025

Dated April 18, 1996



BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

RECEIVED

25 1996

FCC MAIL ROOM

In the Matter of :
: Policy and Rules Concerning the :
Interstate, Interexchange : CC Docket No. 96-61
Marketplace :
: Implementation of Section 254(g) :
of the Communications Act of :
1934, as amended :

INITIAL COMMENTS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
TO THE NOTICE OF PROPOSED RULEMAKING
REGARDING INTERSTATE, INTEREXCHANGE
SERVICE, SECTIONS III, VII, VIII AND IX

I. INTRODUCTION

These comments are submitted on behalf of the Pennsylvania Public Utility Commission (PaPUC) in response to the Commission's Notice of Proposed Rulemaking (NOPR), released March 25, 1996, as captioned above. The NOPR seeks comments on a wide variety of issues pertaining to implementation of the Telecommunications Act of 1996 (1996 Act) pertaining to the domestic long-distance market. The NOPR divides these issues into nine specific sections. In the NOPR, the Commission gives interested parties the opportunity to file two sets of comments -- one set for Sections IV, V and VI, and the other set for the remaining sections of the NOPR.

On April 19, 1996, the PaPUC filed initial comments with the Commission addressing Sections IV, V and VI of the NOPR. These initial comments are submitted in response to the remaining sections of the NOPR. While the PaPUC is filing two sets of

B. Pricing Issues (Section VII)

Consistent with the PaPUC's prior discussion, the PaPUC acknowledges that tacit price coordination is an undeniable and continuing characteristic of the nation's interexchange marketplace. The PaPUC strongly disagrees with the Commission that the reclassification of AT&T as a non-dominant carrier or the detariffing of non-dominant carriers will have any measurable effect on the level of tacit price coordination. Overall, if carriers find it more profitable to coordinate their pricing activity rather than engage in truly competitive pricing, carriers will, without much difficulty, find ways to coordinate pricing activities, with or without public identification of prices.

Whether such activity will be decreased or eliminated by BOC entry into the interLATA market remains to be seen. The PaPUC has observed that tacit price coordination in IntraLATA markets has continued even where a BOC and IXCs have engaged in head-to-head competition.

Acknowledgement by the Commission that tacit price coordination continues is another reason that the Commission should maintain non-dominant carrier tariffs in order to monitor this activity. Only when the 1996 Act is fully implemented and competition is fully developed in all markets will the need for these valuable regulatory tools be eliminated.

C. Bundling of CPE (Section VIII)

Since 1980, the Commission has implemented and enforced a general rule prohibiting the billing of the sale or lease of

customer premises equipment (CPE) with the provision of common carrier telecommunications services (CCTS). The PaPUC believes that while there may be some benefit to consumer competitive options in eliminating the bundling prohibition, the Commission should exercise great caution prior to taking such action.

Experiences in the cellular and shared tenant service (STS) markets provide historical experience that allowing joint marketing of CPE and CCTS in the name of increasing competitive options can also increase competitive abuses. In the cellular market, the bundling of cellular telephones and cellular services has caused customer confusion, leading low-volume customers to enter into long-term contractual arrangements to the severe detriment of development of the cellular retail market. In the STS market, the PaPUC has encountered frequent abuse caused by, in this case, sophisticated, high volume customers, accepting unconscionable lease terms on CPE in order to take advantage of what appear to be worthwhile discounts on CCTS.⁴ If sophisticated, high-volume customers are susceptible to such competitive dealings, one can only imagine the potential exposure for unsophisticated residential customers. At a bare minimum, the Commission must require carriers to offer unbundled service offerings along with any bundled service offerings which are permitted.

It is important for the Commission to understand and take into account that the transition to full-scale competition in all

⁴ The Philadelphia courts have become the setting of many, many lawsuits between STS providers and their business customers involving disputes caused by the bundling of CPE and CCTS.

markets will be a very confusing scenario for consumers. Competitive choices are only good for consumers if they understand their choices at a level which allows them to exercise wise purchasing decisions. While joint marketing or bundling of services may be an essential component of a fully competitive environment, the Commission should allow various marketing options to be presented to consumers very gradually to allow the sophistication of the marketplace to develop at, at least, a comparable level to the pace of the development of competition. Otherwise, the transition period from regulation to competition will be a nightmare for consumers.

While the PaPUC applauds the Commission for considering innovative ways to bring increased competitive choice to consumers, the PaPUC recommends that the Commission take this issue under advisement to allow for a more gradual consumer transition to the competitive environment. Once consumers become somewhat accustomed to increasing competition in all markets, historic restrictions, like the CPE/CCTS bundling prohibition, will no longer serve any valid purpose and should be lifted at that time.

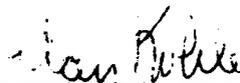
D. Other Issues (Section IX)

In Section IX of the NOPR, the Commission has raised a variety of less visible issues for which it requires comment at this time. The PaPUC will not comment on these issues in its initial comments but reserves the right to address these issues in its reply comments.

IV. CONCLUSION

The PaPUC appreciates the opportunity to provide comment in this important docket and requests the Commission to adopt rules consistent with the discussion herein. The PaPUC looks forward to participating in the reply comment stage of this proceeding following the submission of comments by all interested parties.

Respectfully submitted,



Alan Kohler
Assistant Counsel

Veronica A. Smith
Deputy Chief Counsel

John F. Povilaitis
Chief Counsel

Counsel for Pennsylvania Public
Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

DATED: April 25, 1996



RECYCLED

4. STAINLESS STEEL SUPPLY CO. 1 R03-227-0510 E01

JENCOM INC.

DATA & TELECOMMUNICATION SPECIALISTS

2229 SPRINGFIELD AVENUE P.O. BOX 201
VALUXHALL, NEW JERSEY 07088

(908) 964-4888
FAX (908) 687-1414



October 7, 1996

Chairman Reed Hundt
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

RE: Bundling of CPE Interexchange Carriers, CC Docket 96-61

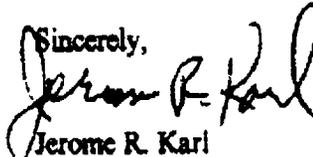
Dear Mr. Chairman:

As a competitive Value Added Reseller ("VAR"), we wish to express our strong opposition to the Commission's proposal to allow interexchange carriers to bundle customer premises equipment ("CPE") with their regulated transmission service.

Value Added Resellers purchase equipment from independent CPE manufacturers. We then combine equipment from different manufacturers to provide customized solutions that meet the individualized needs of our customers. Because most of our customers are small to medium size businesses, they lack the resources or sophistication to assemble such customized solutions themselves. As a result, VARs are an important source of choice for these users.

If the Commission allows CPE bundling, we believe that many VARs will be forced out of business. Bundling would allow carriers to offer packages that combine transmission service with "free" CPE. A company such as ours simply cannot compete against such an offer. As a result, end-users will have no practical choice but to accept the CPE chosen by their carriers, even if it is not the best equipment for their needs. This result would not be in the public interest.

We therefore urge the Commission to retain the current rule, thereby allowing us to continue to provide increased choice to our customers.

Sincerely,

Jerome R. Karl
President

cc: Commissioner Quello
Commissioner Ness
Commissioner Chong
William A. Caton

SMITH COMMUNICATIONS, INC.

Oklahoma City, Ok 73013

October 10, 1996

Chairman Reed Hundt
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

RE: Bundling of CPE by Interexchange Carriers, CC Docket 96-61

Dear Chairman Hundt:

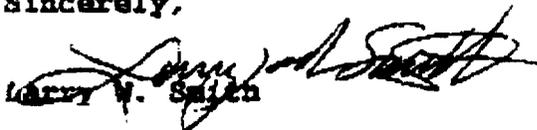
Smith Communications, as well as other independent value added resellers, provides valuable and needed customized services for medium to small size businesses. As a vendor of competitive products and consulting services for these communication users, we wish to express our strong opposition to the proposal to allow "bundling" of unregulated CPE with regulated products such as tariffed transmission services.

This proposal is contrary to the purposes of the new 1996 Telecommunications Act and would not be in the interest of the users we serve or the general public.

There can be no doubt that many "Bell System" trained technicians are now directly serving business communication needs of users independent from the giant interexchange carriers. Allowing CPE bundling by these carriers would enable them to effectively "force" users of their transmission services to also obtain the CPE that these carriers choose to provide. This would deny user choice and, therefore, my company's ability to continue to offer users a variety of equipment from which they can choose what best serves their specific business communication needs.

We urge you to reject the CPE rebundling proposal.

Sincerely,


Larry W. Smith

cc: Commissioner James Quello
Commissioner Susan Nees
Commissioner Rachelle Chong
William A. Caton, Sec. of FCC

3925 E. Memorial Rd.

Telephone 405-478-0968
Facsimile 405-478-0969





DATATRAN NETWORK SYSTEMS, INC.

October 17, 1996

Chairman Reed Hundt
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

RE: Bundling of CPE by Interexchange Carriers, CC Docket 96-61

Dear Mr. Chairman:

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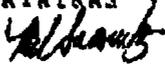
VARs purchase equipment from independent CPE Manufacturers. We then combine equipment from different manufacturers to provide customized solutions that meet the individualized needs of our customers. Since most of our customers lack the resources and/or know-how to assemble these solutions themselves, VARs like Datatran are an important source for them.

If the Commission allows CPE bundling, we believe that many VARs will be forced out of business. Bundling would allow carriers to offer packages that combine transmission service with "free" CPE. We simply cannot compete with such an offer. As a result, end-users will have no practical choice but to accept the CPE chosen by their carriers, even if it is not the best solution for their needs.

We therefore urge the Commission to retain the current rule, thereby allowing us to continue to provide increased choice to our customers.

Sincerely yours,

DATATRAN


Mel Sarowitz, Pres.

cc: Commissioner James Quello
Commissioner Susan Ness
Commissioner Rachelle Chong
Secretary of FCC, William A. Caton

1111 Rancho Conejo Blvd., Suite 103 • Newbury Park, CA 91320
(805) 496-1400 • Fax (805) 496-0520 • E-Mail: 



October 7, 1998

Chairman Reed Hundt
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

RE: Bundling of CPE by Interexchange Carriers, CC Docket 96-51

Dear Mr. Chairman:

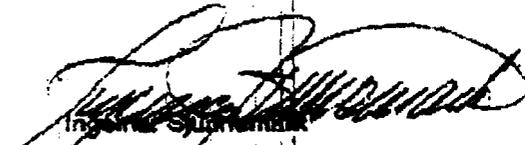
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Value Added Resellers purchase equipment from independent CPE manufacturers. We then combine equipment from different manufacturers to provide customized solutions that meet the individual needs of our customers. Because most of our customers are small to medium size businesses, they lack the resources or sophistication to assemble such customized solutions themselves. As a result, VARs are an important source of choice for these users.

If the Commission allows CPE bundling, we believe that many VARs will be forced out of business. Bundling would allow carriers to offer packages that combine transmission service with "free" CPE. A company such as ours simply cannot compete against such an offer. As a result, end-users will have no practical choice but to accept the CPE chosen by their carriers, even if it is not the best equipment for their needs. This result would not be in the public interest.

We therefore urge the Commission to retain the current rule, thereby allowing us to continue to provide increased choice to our customers.

Sincerely,



James Quello
Executive Vice President

Cc: Commissioner James Quello
Commissioner Susan Ness
Commissioner Rachelle Chong
William A. Calton, Secretary of FCC



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EDIT

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FICOMP, INC.

October 7, 1996

Commissioner Rachelle Chong
Federal Communications Commission
1919 M. Street NW
Washington, D.C. 20554

RE: Bundling of CPE by Interexchange Carriers, CC Docket 96-61

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We therefore urge the Commission to retain the current rule, thereby allowing us to continue to provide increased choice to our customers.

Very truly yours,


John R. Parr
President

3016 Advance Lane, Colmar, PA 18915-8766
(215) 997-2600 FAX: (215) 997-2609

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October 7, 1996

Chairman Reed Hundt
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

RE: Bundling of CPE by Interexchange Carriers CC Docket 96-61

Dear Mr. Chairman:

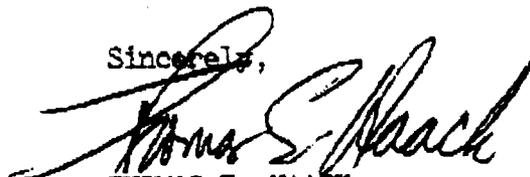
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We therefore urge the Commission to retain the current rule, thereby allowing us to continue to provide increased choice to our customers.

Sincerely,



THOMAS E. HAACK
PRESIDENT

cc: Commissioner Quello
Commissioner Ness
Commissioner Chong
William A. Caton