

November 15, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Reed Hundt
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Re: Access Charge Reform

Dear Chairman Hundt:

This letter is submitted on behalf of America Online, Inc., CompuServe Incorporated, Prodigy Services Corporation, and PSINet, Inc. Together these companies constitute our nation's leading independent (non-telephone company-affiliated) providers of Internet access and online services. Our companies currently have over 15 million residential and small business subscribers, and we are pioneers in bringing to the marketplace accessible, reasonably-priced, and innovative Internet and online services which have broad consumer appeal. These information services include, of course, everything from access to the World Wide Web and countless databases, to e-mail, and participation in online conferences and special interest areas on thousands of topics. The information services our companies offer play a major role in enhancing the personal lives of individuals and the productivity of businesses.

For more than a decade, the Commission's rules and policies have fostered an environment in which this country's new information services industry could develop free of regulation. The decision not to regulate online and Internet service providers (collectively ISPs), coupled with the Commission's subsequent decision recognizing that, for purposes of applying access charges, ISPs should be treated as end users of telecommunications services rather than as common carriers, has enabled the undersigned independent ISPs and others to take the lead in building the world's leading information services industry.

In enacting the Telecommunications Act of 1996, Congress provided a strong endorsement of the Commission's existing successful policies regarding the deregulatory treatment of ISPs. New Section 230 of the Communications Act 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 computer services unfettered by Federal or State regulation. ..." And, in new Section 223(e), Congress expressly disavows any intention "to treat interactive computer services as common carriers or as telecommunications carriers."

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Recently, several Regional Bell Operating Companies (RBOCs) have called for a change in the way ISPs pay for local telephone connections which could result in a substantial increase in the fees that Americans pay for access to information services. We urge the Commission to proceed cautiously in drawing conclusions from the RBOC claims concerning the impact of Internet traffic on the public switched telephone network. There is no evidence to suggest that the rates ISPs currently pay fail to cover the full costs for the local business lines they use. In fact, as shown in their recently released earnings reports, the RBOCs' profits are being boosted by the second lines being added at residences and small businesses to accommodate data traffic and the increase in local message units.

We are hopeful that competition in the local exchange marketplace will develop as the FCC implements the 1996 Act and that with such competition high-bandwidth, data-friendly local services will be deployed. In our view, it is premature even to consider any change in the way ISPs pay for local connections until after the Commission takes the first steps towards implementation of fundamental access charge reform, thereby setting the stage for a competitive environment in which new, high-bandwidth services and alternative network technologies may be deployed by multiple providers.

The Commission has recognized ISPs would be required to pass any rate increase through to their subscribers, and that substantial rate increases would severely dampen the development of a sustainable mass market for information services. While less competitive industries may be able to absorb a cost increase, this is not possible for independent ISPs, because competition has made for razor-thin profit margins. Subscribers to Internet and online services are very price-sensitive. The widespread movement in the industry towards monthly flat rate pricing plans for unlimited usage is testimony to this price sensitivity.

Moreover, any change in regulatory treatment of ISPs presents significant conceptual difficulties. It is virtually impossible to distinguish Internet access and online providers from other types of end users, and any attempt to do so almost certainly would lead to discrimination among service providers and artificial distortions of business arrangements. It is also virtually impossible at this time for ISPs to track the jurisdictional nature of traffic for regulatory purposes.

We appreciate the statements you have made in the past questioning the wisdom as a matter of public policy of applying traditional carrier access charges to ISPs. As leading providers of innovative and reasonably-priced Internet and online services, we urge the

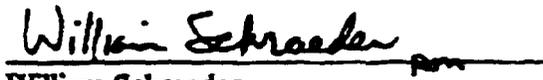
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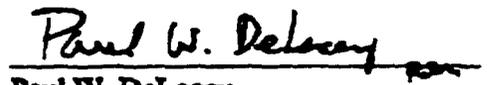
Commission to defer consideration of any changes in the regulatory treatment of ISPs at least until after the Commission has taken steps to accomplish fundamental access charge reform.

Sincerely,


Steve Case
Chief Executive Officer
America Online, Inc.


Robert J. Massey
President and Chief Executive Officer
CompuServe Incorporated


William Schraeder
President
PSINet, Inc.


Paul W. DeLacey
President and Chief Executive Officer
Prodigy Services Corporation

cc: Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Nees
Regina Keeney, Chief, Common Carrier Bureau