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December 19, 1996

Hon. Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Chairman Hundt:

The Commercial Internet eXchange Association ("CIX") and AGIS, ATMNet, BBN Planet, CBC Interpath, DataXchange Network, Epoch Networks, Eskimo North, GoodNet, Intermedia, Internet Atlanta, MFS-UUNet, NETCOM, PSINet, Westnet, and WNA, Inc. write in response to Bell Company requests that the Commission revisit the Enhanced Service Provider ("ESP") exemption of 47 C.F.R. § 64.702 in its forthcoming access charge reform proceeding, and consider imposing access charges on Internet service providers ("ISPs"). We look forward to participating in the Commission's consideration of this request, and have begun working over the past six months to inform Commission staff about the architecture and economics of the Internet.

We appreciate your interest in and understanding of the importance of the Internet for communication, education and commerce in the 21st Century, as well as your past statements questioning the wisdom of imposing traditional carrier access charges on ISPs.

We understand, however, that the Commission is considering studies put forward by several of the BOCs regarding Internet traffic on the PSTN as it formulates questions for the access charge proceeding. As the issue of access charges for Internet service is one of enormous importance to the competitive, low-margin business of Internet access, as well as to tens of millions of Internet users in the United States, we write at this juncture to underscore a few significant points regarding the BOCs' assertions:

- Nothing in the Telecommunications Act of 1996 supports elimination of the ESP exemption. Instead, Congress made an express statement of federal policy "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.*" 47 U.S.C. § 230(b)(2) (emphasis added).
- The BOC studies incorrectly tie possible network congestion to the separate question of imposing access charges on ISPs. Network congestion is likely to occur, if at all, in relatively few points in the PSTN, and can be addressed much more directly through

technology and market-based solutions than through across-the-board access or similar charges on ISPs.

- The BOC studies ask the wrong question -- how the existing voice telephony infrastructure of the PSTN must be expanded in its current form -- instead of exploring how the Commission can best encourage modification of the PSTN to deliver data traffic more efficiently.
- The BOCs have made business decisions to invest large amounts of rate-payer revenues in networks designed in a manner that does not allow ISPs to use the PSTN efficiently, and requires data traffic to travel through switches with added services that ISPs neither want nor need. The alleged problems complained of in the BOC studies, if true, are largely ones of their own making.
- The BOC studies may have presented an exaggerated picture of future Internet traffic load. They were conducted before the introduction of CLEC facilities-based local loop competition. As wireless CLECs, cable television operators, satellite providers, and a host of other carriers introduce competition into local markets, the BOCs will hardly complain of too much traffic. In addition, the studies appear to rely in several important instances upon selective data samples and do not model traffic flows to establish that the traffic congestion was in fact caused by Internet traffic.
- The BOC studies ignore the significant second-line income attributable to increased Internet use that has raised revenue for most of the BOCs and GTE.
- Far from being carriers who use the local loop for free, ISPs are end users who currently pay for use of the PSTN at retail rates for business services. Substituting, or even worse, adding access charges to business rates that ISPs already pay would impose an outmoded regulatory regime on a new, highly competitive market.

We encourage the Commission to rely upon emerging competitive forces to encourage the PSTN to carry data traffic more efficiently, and to examine how ISPs might pay for services that they actually need. However, this inquiry raises complex, technical questions that require considerable fact-finding, including more thorough studies of the varying nature of Internet traffic from which to develop technology and market-based solutions.

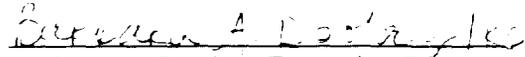
For this reason, we are committed to working with the BOCs and with the Commission staff to explore technological solutions that better respond to the needs of ISPs and Internet consumers. We also believe that there would be considerable merit in the Commission appointing a Federal Advisory Committee or issuing a Notice of Inquiry to study possible technological solutions before the Commission takes up the BOCs' requests to end or create exceptions to the ESP exemption.

Hon. Reed Hundt, Chairman

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CIX and its members look forward to working with the Commission in forthcoming proceedings on these issues.



Barbara A. Dooley, Executive Director
Commercial Internet eXchange Association ("CIX")

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Intermedia Communications, Inc.
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ATMNet
San Diego, CA

Internet Atlanta
Atlanta, GA

BBN Planet
Cambridge, MA

MFS-UUNet
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CBC Interpath
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NETCOM On-Line Communication Services, Inc.
San Jose, CA

DataXchange Network, Inc.
Clearwater, FL

PSINet, Inc.
Herndon, VA

Epoch Networks, Inc.
Irvine, CA

Westnet
Boulder, CO

Eskimo North
Seattle, WA

WNA, Inc.
Engelwood, CO

GoodNet
Phoenix, AZ

Enclosure

cc: Commissioner Rachelle Chong
Commissioner Susan Ness
Commissioner James Quello
Regina Keeney
Robert Pepper

Commercial Internet eXchange Association Members December 1996

3C Europe. Ltd	Eskimo North	NEC Corporation
a2i Communications	EU*Net BV	Netcom Online Communications Services, Inc
ACSI (American Communication Services, Inc.)	EuroNet Internet BV	NetDirect Internet
Advantis (IBM Global Network)	Network Operations Centre	netINS, Inc.
Agate Internet Services	Exodus Communications	NETRAIL
Apex Global Information Services (AGIS)	Fibernet	NetNet
Aliant Communications	Fibrcom, Inc.	NetVision
American Network Inc.	Fujitsu Limited	Netway Communications
ANS CO+RE Systems	Genuity, Inc.	New York Net
Ascend Communications	GetNet International	Novia Internetworking
Ashton Communications (AICnet)	Global Enterprise Services / JvNC	Octacon Ltd.
Asociados Espada	Global One	OSI de Guatemala, S.A.
AT&T	Global Village Communication	OTSUKA SHOKAI Co.,Ltd
AT&T Jens Corporation	GoodNet	Pacific Bell Internet
ATMnet	GridNet International	Pearl Vision
Atson, Inc.	GST Internet, Inc.	Pilot Net Services
Autosoft Corp. (Crossroads Communications)	Hitachi	Planet Online Ltd.
BBN Planet	Hong Kong Supernet Limited	PSINet
Bekkoame Internet, Inc.	Hookup Communications Corp.	Qwest Communications
British Telecom	HP Labs Bristol	RACSAnet
Bull HN Information Systems Inc.	I-2000	Rapid Systems, Inc.
Cable Internet	Icon CMT	SARENET SA
Telewest Communications, Ltd.	Inet, Inc.	Singapore Telecom
Cable Online	Information Access Technologies, Inc./Holonet	SOVAM Teleport
Cable & Wireless Internet Exchange	INS GmbH	Sprint
Centnet	Integrated Network Services	Sun Microsystems
CERFnet	Intermedia Communications Inc.	Synergy Communications
Compuserve	Internet Bermuda Limited	Tachyon Communications Corporation
Connect Com.au	Internet Corporativo, SE de CV	Tchui Data, Ltd.
CR Internet	Internet Exchange Europe	Telecom Finland
CRL Network Services	Internet Initiative Japan (IIJ)	Teleglobe, Inc
Crocker Communications	Internet ProLink SA	The Internet Mainstreet (TIMS)
CSIR Information Services (Infotek)	Internet Public Access Corp.	TheOnRamp Group, Inc.
CTD Technologies, Inc	Interpath	Thoughtport
CTS Network Services	Interserve Communication (H.K.) Ltd.	Threeweb Corporation
Cybergate, Inc.	ITnet SpA	TogetherNet
Dart Net Ltd.	IUnet s.p.a.	Tokai Internetwork Council
Data Research Associates, Inc.	JC Information Systems	Tokyo Internet Corporation
Data Xchange	JTNET	Total Connectivity Providers
Datalytics	Council for Advanced Communications Network	TWICS Internet Services
Datanet Communications Ltd.	Kokusai Denshin Denwa, Co., Ltd (KDD)	U-NET Ltd.
Demon Internet Limited	Korea Telecom	USIT United States Internet, Inc.
Digital Equipment Corporation	Lafitte, Morgan & Associates	UUNET PIPEX
Digital Express Group	LDS I-America	UUNET Technologies
DirectNet Corporation	Lincoln Telephone and Telegraph	USAGate
E-Z Net	Logic Telecom S.A.	VBCnet (GB) Ltd
Easynet Group Plc	Logical NET Corp. (Micros)	Vision Network, Ltd.
Electronic Systems of Richmond, Inc.	MCI Telecommunications	VoiceNet
Emirates Telecommunications Corporation	Mikrotec	Voyager Networks, Inc.
EPIX	MIND (Mitsubishi Electric Network Information Co.)	Wis.Com
Epoch Networks Inc.	Nacamar Data Communications GmbH	World-Net Access, Inc.

Affiliated Associations:

London Internet Exchange (LINX)
 Canadian Association of Internet Providers (CAIP)
 Florida Internet Service Providers Association (FISPA)