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April 23, 1997

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Federal Communications Commission
Office of Secretary

BY MESSENGER

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

CC 96-262

Re: **CC Docket No. 96-263**

Dear Mr. Caton:

Enclosed for filing in CC Docket No. 263 you will find an original and 16 copies of the Reply Comments of CompuServe Incorporated and Prodigy Services Corporation and also a computer diskette containing the reply comments in "read only" format. Please date stamp the "stamp and return" copy of the reply comments for return by the messenger.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Randy

Randolph J. May

Enclosures

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

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In the Matter of	)	
	)	
Access Charge Reform	)	**CC Docket No. 96-262**
	)	
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
	)	
Transport Rate Structure and Pricing	)	**CC Docket No. 91-213**
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	**CC Docket No. 96-263**
	)	

REPLY COMMENTS OF COMPUSERVE INCORPORATED AND PRODIGY SERVICES CORPORATION

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SUMMARY

In their initial comments in response to the Notice of Inquiry, CompuServe and Prodigy commended the Commission for its tentative decision not to impose carrier access charges on enhanced services providers and for focusing in the NOI on forward-looking policies that will best facilitate the development of high-bandwidth data networks for the future. CompuServe and Prodigy stated that "the overriding goal of the Commission, acting within the confines of its jurisdiction under the Communications Act, should be to take actions which promote the development of an advanced national infrastructure that is characterized by the widespread deployment of high-speed, high-bandwidth transmission facilities which are available on an operationally reliable basis at reasonable prices." CompuServe and Prodigy urged the Commission to adopt the following general principles to facilitate the development of a national information infrastructure: (1) maintain the distinction between regulated basic communications services and unregulated enhanced services; (2) continue to take actions which encourage the rapid development of local exchange competition; (3) adopt and enforce safeguards, such as equivalent collocation opportunities, to ensure that the ILECs do not discriminate against independent ESPs, and (4) ensure that the LECs do not charge ESPs above-cost rates for local exchange services.

Having these principles in mind, in these reply comments, CompuServe and Prodigy respond to the principal arguments put forward by other parties. The Commission should reject the view of the local exchange carriers that rates for existing services used by ESPs should be increased to dampen demand for online services. While the LECs say they want to increase rates for ESPs' existing access arrangements in order to give ESPs an "incentive" to move to new more data-friendly access arrangements, their position should be rejected for several reasons.

First, does anyone now recall the LECs' rallying cry for price cap regulation several years ago? It was, of course, that if only the regulators would abandon traditional, cost-of-service rate of return regulation, the LECs would have the incentive they needed to invest in efficient plant and to offer new services. The Commission accepted the LECs' claims, emphasizing time and again that: "Price cap regulation encourages LECs to improve their efficiency by harnessing profit-making incentives to reduce costs, invest efficiently in new plant and facilities, and to develop and deploy innovative service offerings." It's fair for the Commission to ask the LECs what went wrong with the incentives for investment in new plant and innovative services supposedly created by price cap regulation. CompuServe and Prodigy do not believe the Commission intended that increased demand for online services would be considered an exogenous cost under the price cap regime for which the LECs would be entitled to additional cost recovery. The LEC pleas for rate increases to account for costs which they claim are associated with

increased ESP demand sound like traditional cost-of-service regulation. Only last week, however, the Commission reiterated that "changes in costs are not relevant to price cap regulation."

Second, and in any event, there is no evidence the LECs are not now recovering their costs for the existing services used by ESPs. In these comments, CompuServe and Prodigy explain why the LEC claims regarding the cost/rate relationships are wrong. Among other things, the LECs fail to take into account that state-tariffed business lines are set to recover their costs, that most business customers of online services pay timed local usage charges when connecting with their ESP providers, that the LECs' earnings growth is being fueled now by second line installations attributable to online usage, and that even assuming data calls are longer, on average, than voice calls, the peak usage period for online calls is typically not the same as the peak period for voice calls.

Even assuming for the sake of argument that much of the traffic carried by the ESPs over their state-tariffed business lines is jurisdictionally interstate, this would not mean that the Commission lacks authority to continue to allow ESPs to use state-tariffed access services. The FCC previously has exercised such "jurisdictional forbearance" authority in the past, and its authority to do so now has been made explicit with the passage of the 1996 Telecommunications Act granting the Commission explicit forbearance authority. Thus, as a matter of law the Commission may continue to allow ESPs to use state-tariffed access lines, and certainly as a matter of policy it would be very unwise for the Commission to prevent ESPs from continuing to use state-tariffed local exchange services, especially absent the development of a federal access arrangement specifically designed to meet the needs of data service providers.

Finally, the Commission should reject BellSouth's proposal to re-classify protocol conversion services as regulated common carriage. Protocol conversion services are now being provided on an unregulated competitive basis. It would be a step backwards -- and it would be anticompetitive -- for the Commission now to treat as common carriage these unregulated services so the LECs could offer them on an integrated basis without safeguards.

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	)	

REPLY COMMENTS OF COMPUSERVE INCORPORATED AND PRODIGY SERVICES CORPORATION

CompuServe Incorporated and Prodigy Services Corporation, by their attorneys and pursuant to Section 1.430 of the Commission's Rules, hereby submit these reply comments in response to the Notice of Inquiry on Implications of Information Service and Internet Usage ("NOI"), released December 24, 1996, in the above-captioned proceeding. CompuServe and Prodigy are among the nation's leading independent providers of Internet access and information services, so they have a vital interest in this proceeding. They have filed initial and reply

comments in response to the Notice of Proposed Rulemaking ("NPRM"),[1/] and initial comments in response to the NOI in this proceeding[2/] and in these pleadings they have, for the most part, set forth their fundamental positions. These reply comments will be used, therefore, only briefly to recapitulate, and then to address some of the more significant issues raised in the initial comments.

I. BACKGROUND

In their initial NOI comments, CompuServe and Prodigy again commended the Commission for its tentative decision not to impose the existing carrier access charge regime on enhanced service providers. From the perspective of CompuServe and Prodigy, the Commission is correct to focus in this NOI on the future in terms of developing information concerning public policies that will "best facilitate the development of high-bandwidth networks of the future, while preserving efficient incentives for investment and innovation in the underlying voice network."[3/]

CompuServe and Prodigy stated that "the overriding goal of the Commission, acting within the confines of its jurisdiction under the Communications Act, should be to take actions which promote the development of an advanced national information infrastructure that is characterized by the widespread deployment of high-speed, high-bandwidth transmission

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1/ See Comments and Reply Comments of CompuServe and Prodigy, January 29, 1997, and February 13, 1997, respectively.

2/ See Comments of CompuServe and Prodigy, March 24, 1997.

3/ NOI, at para. 311.

facilities which are available on an operationally reliable basis at reasonable prices."[4] CompuServe and Prodigy do not believe that the Commission ultimately will -- or should -- dictate the particular "data-friendly" local services that will meet their needs more efficiently than the current services, such as ordinary business lines, that most ESPs use at present. Rather, CompuServe and Prodigy set forth in their initial comments the general principles which they believe the Commission should adopt and follow in order to facilitate the development of a national information infrastructure that supports the widespread proliferation and usage of advanced information services:

- The distinction between regulated basic communications services and unregulated enhanced services should be maintained.
- The Commission should continue to take actions which encourage the rapid development of local exchange competition.
- Because the incumbent local exchange carriers ("ILECs") are now competitors in the information services business, it is important for the Commission to adopt and enforce safeguards, such as equivalent collocation opportunities, to ensure that the ILECS do not discriminate against independent ESPs.
- The Commission should ensure that the LECs do not charge ESPs above-cost rates for local exchange services.

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[4] CompuServe and Prodigy NOI Comments, at 5.

The Commission should have these principles in mind as it addresses the issues raised in the NOI. CompuServe and Prodigy now will respond to some of the principal positions put forward by other commenters in their initial comments.

II. DISCUSSION

A. The Commission Should Reject The LEC View That Rates For Existing Local Exchange Services Used by ESPs Should Be Increased To Suppress Demand For Online Services

At bottom, most of the major local exchange carriers argue that the Commission should eliminate the current "ESP exemption" so ESPs will be forced to pay higher rates for the existing access arrangements they use and, therefore, demand will be suppressed. The reason the LECs contend that they want to suppress demand for Internet access and online services is that they claim that they have incurred unanticipated costs for labor and additional equipment to re-home switches at certain central offices at which Internet traffic is concentrated. The LECs claim that the potential "congestion problem" they face is created for the most part because, on average, calls to Internet access providers are longer than ordinary voice calls, and the local exchange services currently used by ESPs have been priced on the assumption that they would be used predominantly to carry voice traffic. While it is undeniably true that the LECs propose to suppress ESP demand for the existing circuit-switched access arrangements by increasing rates for these services, they claim they want to do so for a noble purpose: to give ESPs an "incentive" to move to new more data-friendly access arrangements. With the foregoing position of the major LECs arguments in mind, several things need to be highlighted.

1. **Price cap regimes were supposed to give the local exchange companies the "incentive" to invest in new services and technologies without cost-of-service rate increases.**

Does anyone now recall the LECs' rallying cry several years ago in pushing for the institution of price cap regimes at both the federal and state levels? It was, of course, that if only the regulators would move from traditional, cost-of-service rate of return regulation to price cap regulation they would then have the incentive they needed to invest in new efficient plant and deliver new services. The LECs would have the incentive to do this, they claimed, because under price caps they are allowed to keep the costs savings realized from investment in efficient new plant and services.[5/]

With all of the present talk by the LECs of the need for rate increases on existing services as a means of incenting them to make available new data-friendly services, it is worth recalling what the Commission has said about the institution of its price cap regime:

> The LEC price cap plan was designed to stimulate some of the efficiencies found in the competitive markets and to act as a transitional regulatory scheme until the advent of actual competition makes price cap regulation unnecessary. Price cap regulation encourages LECs to improve their efficiency by harnessing profit-making incentives to reduce costs, invest

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[5/] CompuServe and Prodigy understand that the FCC and most of the states did not create "pure" price cap regimes in the sense that the LECs are able to pocket all cost savings they realize absent any rate of return considerations whatsoever. Nevertheless, the LECs assured the regulators -- and their customers -- that the price cap regimes which were adopted would provide them the necessary incentives to invest in new technologies and services.

efficiently in new plant and facilities, and to develop and deploy innovative service offerings.[6]

And in the Access Charge Reform NPRM itself, the Commission emphasized that: "Price cap regulation encourages incumbent LECs to improve their efficiency by harnessing profit-making incentives to reduce costs, invest efficiently in new plant and facilities, and develop and deploy innovative service offerings."[7] And, equally pertinent to the LEC claims that increased ESP traffic has caused them to experience unanticipated costs, the Commission said only last week that "changes in costs are not relevant to price cap regulation and carriers must control their costs if they are to remain profitable. Through these incentives, ratepayers receive the benefits of improved efficiency and reduced rates."[8]

The LECs, of course, are strangely silent concerning price caps in their comments -- silent as in "How quickly we forget!" But wasn't the whole idea of price caps -- as recognized by the Commission in the above statements and many others --[9] that switching from cost-of-service regulation to the price cap regime would be incentive enough for the LECs to make the

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[6] 1995 Annual Access Tariffs, GTE Telephone Operating Companies, 11 FCC Rcd 5390 n.5 (1996) (emphasis supplied), citing Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd 6786 (1990) (LEC Price Cap Order).

[7] Access Charge Reform NPRM, at para. 30.

[8] 1993-1996 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, Part 2, FCC 97-139, April 17, 1997, at para. 9.

[9] See, e.g., Price Cap Performance Review for Local Exchange Carriers, 11 FCC Red 858, 861 (1995).

investments required to bring new technologies and services to the marketplace.[10] CompuServe and Prodigy submit that one of the important questions the Commission should be asking the LECs in this NOI is what went wrong with the incentives for investment in new plant and services supposedly created by the Commission's Price Cap regime and those of the states?

2. There is no evidence the LECs are not recovering their costs for the existing services used by ESPs.

Even if the LECs were still in a rate of return rather than a price cap environment, the LECs do not make a convincing case that they are not now fully recovering the costs they incur in providing ESPs with the existing local exchange lines ESPs are using. As CompuServe and Prodigy showed in their initial NPRM comments, and as the ETI study submitted in response to the NPRM shows,[11] the LEC argument is unconvincing for several reasons. First, the rates for the ordinary business lines which ESPs acquire from state tariffs are already set to recover their costs.[12] Second, in many places, the business end users who access ESPs pay timed local usage charges for local calls, often priced at a contributory rate; the LECs continue to ignore this source

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[10] Certainly, the LECs do not claim that increased online usage by ESPs constitutes an "exogenous" factor qualifying them for automatic rate relief under the price cap regime of either this Commission or the states, and such a claim, if made, would be far-fetched.

[11] Selwyn and Laszlo, The Effect of Internet Use on the Nation's Telephone Network, January 22, 1997 (hereinafter "ETI Study").

[12] Note that while Bell Atlantic now refers to $20 per line in revenue, CompuServe is paying, on average on a nationwide basis, approximately $35 per line. Comments of CompuServe and Prodigy, January 29, 1997, at 13. It is interesting to note that in its June 28, 1996 study, Bell Atlantic reported receiving $17 per line per month for business lines and it now reports receiving $20 per line. See page 1 of Attachment B to Bell Atlantic's March 24, 1997 NOI Comments.

of their revenue recovery attributable to online usage. Third, growth of Internet access and online services has created a tremendous demand for second phone lines with the associated new revenue streams, and the LECs have been able to provide these additional lines at little incremental costs because the facilities for these lines are already in place, lying idle. In many areas, of course, as pointed out above, if these second lines are used by businesses, they too are subject to timed local usage charges. The BOCs themselves have attributed much of their recent earnings growth to new revenues generated from additional lines spurred by the growth in online usage.[13/]

It bears repeating that Pacific Telesis offered customers who subscribed to an additional phone line free installation and five free months of free unlimited Internet usage from the PacTel Intel affiliate.[14/] If PacTel were concerned about increased Internet usage imposing costs that it was not recovering, why would it be stimulating such usage, and the installation of additional lines, by such give-aways? Presumably, the promotion was not designed by PacTel deliberately to lose money by stimulating the provision of additional lines -- unless, in fact, it was designed deliberately to lose money while gaining a competitive edge in the Internet services market through cross-subsidization. Of course, if this was the design, it merely illustrates why the Commission must be so wary of allowing the LECs to increase the rates for existing services

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13/ Interview with Philip J. Quigley, Pacific Telesis - Inside Line Pacific Telesis Home Page, www.pactel.com/financial/inside_line198.html (Feb. 5, 1997).

14/ See Pacific Telesis Home Page, http://www.pacbell.com/November 1996.

used by independent ESPs while ESPs remain so dependent upon the LECs for the means to reach their customers.[15]

Finally, related to the LECs' claims concerning the costs imposed by increased online usage, it is important to point out that they generally ignore the fact that, even assuming for present purposes online calls, on average, are "longer calls" than voice calls,[16] the peak usage for online calls is typically in the evening hours when the network capacity otherwise would be largely unused. And, it is handling traffic during the peak period, of course, which drives the need for the carriers to make additional investments. Some of the LECs' studies acknowledge that the "data" busy hour is not the same as the voice peak usage period.[17] And, US West admits that "[a]s long as the ESP busy hour is not the same hour and has less usage than the [business] busy hour, a long run incremental cost study would not reflect that additional investments in the office are required to handle the ESP traffic."[18] While US West claims it "could quite possibly" need to make additional investments to accommodate further online growth, it is far more likely that US West will benefit from the growth in usage which is occurring in its network outside of the traditional peak usage period.

15/ See CompuServe and Prodigy NOI Comments, March 24, 1997, at 8.

16/ This assumption may be flawed, or at least exaggerated. See ETI Study, at 29.

17/ See US West Study at 7; Bell Atlantic/NYNEX Study, at 4.

18/ US West Study, at 7.

B. The Commission Has Authority To Continue To Allow ESPs To Use State-Tariffed Access Arrangements

CompuServe and Prodigy are hopeful that one of the outgrowths of this NOI proceeding will be movement towards the development of a federal access offering designed to meet the needs of Internet and online providers. Certainly, no one disputes that the current federal access regime is based on circuit-switched voice offerings and is not specifically designed for data services. For example, ESPs do not need voice-oriented features such as "equal access" dialing and trunk-side signaling which are bundled into the current Part 69 access arrangements.

Any new federal access arrangement designed to meet the specific needs of ISPs presumably would be based on packet-switched, rather than circuit-switched, technology. As Southwestern Bell recognizes, such new technologies "are not necessarily compatible with the traditional minute-of-use type of measurement and billing" and alternative "billing techniques and methods (i.e., kilo-character, flat rate by capacity or bit-rate) may be more appropriate."[19] CompuServe and Prodigy believe that Southwestern Bell is correct in identifying these non-minute-of-use types of charging mechanisms as likely to be more appropriate in terms of moving forward any discussion of what a new federal access arrangement designed for ESPs should look like.[20]

19/ Comments of Southwestern Bell Telephone Company, March 24, 1997, at 13.

20/ CompuServe and Prodigy also identified these types of non-minute-of-use factors in their initial NOI comments. See CompuServe and Prodigy Comments, March 24, 1997, at 15.

Be that as it may, no such new access arrangement exists today, nor is one likely to exist any time soon. The Commission must allow ESPs to continue to use state-tariffed lines for access to the public switched network. As CompuServe and Prodigy and many others have pointed out, ESPs use the local lines they obtain in the same fashion as do many other business users that receive incoming calls, and other business line users have traffic characteristics similar to ESPs.[21/]

Several of the LECs argue that the Commission no longer should allow ESPs to use the state-tariffed business lines like other end users because they assert that the traffic carried by the ESPs over these lines is jurisdictionally interstate in nature.[22/] Even assuming for the sake of argument that much of the traffic carried by ESPs could be classified as jurisdictionally interstate,[23/] this does not mean that the agency lacks authority to continue to allow ESPs to use state-tariffed access lines. There are cases in which the FCC has refrained from exercising jurisdiction to require tariffing at the federal level when the agency has determined that continued state tariffing was not inconsistent with federal objectives.[24/] While the FCC

21/ See ETI Study, at 18; Comments of Juno Online Services, at 3 (identifying ticket agencies; catalog merchants, airline reservation services, and the like as having traffic characteristics similar to ESPs).

22/ Comments of US West, at 8; Comments of GTE, at 31; Comments of USTA, at 2.

23/ Some of the traffic appears to be intrastate, however, such as when a call is made to a local server and is not further connected to an out-of-state server during that session.

24/ See Filing and Review of Open Network Architecture Plans, 4 FCC Red 1, 48 (1988), where the Commission noted that certain "traditional 'exchange' features" such as call forwarding and call waiting are often tariffed at the state level while, at the same time, being used for interstate as well as intrastate service. There, the Commission stated that, "at this time, it is

previously has exercised such "jurisdictional forbearance" authority in the past, its authority to do so now has been made explicit with the passage of the 1996 Telecommunications Act giving the Commission explicit forbearance authority.[25]

Accordingly, to the extent that some of the LECs and others argue that the FCC must require that ESPs obtain access only from federal tariffs because some or all of such traffic is jurisdictionally interstate, this contention is incorrect as a matter of law.[26] And, certainly as a matter of policy, it would be unwise for the Commission to exercise its jurisdiction to prevent ESPs from continuing to use state-tariffed local exchange services. As CompuServe and Prodigy have pointed out, absent the development of a "data friendly" federal access arrangement that is

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not necessary to extend further [federal] ONA requirements over such currently offered, end user services." Id. See also Illinois Bell Tel. Co. V. FCC, 883 F.2d 104, 114 (D.C. Cir. 1989), where the court pointed out that even though Centrex service had a mixed interstate-intrastate character which allowed the FCC properly to exercise jurisdiction over Centrex sales marketing practices, certain Centrex costs traditionally had been recovered through rates contained in tariffs filed at the state rather than federal level. Similarly, at a time when CPE was still regulated, the FCC held that even though a carrier-provided PBX was used for interstate traffic, the agency should allow the charges for the PBX to be contained in a state tariff. Diamond Int'l Corp. v. AT&T, 70 FCC 2d 656 (1979), aff'd sub nom. Diamond Int'l. Corp. v. AT&T, 627 F.2d 489 (D.C. Cir. 1980).

[25] 47 U.S.C. §160.

[26] Many of the LECs acknowledge the difficulty of determining the jurisdictional nature of ESP traffic. For example, Southwestern Bell states that "[i]t is almost impossible to determine, measure and bill on a jurisdictionally-specific basis the traffic that terminates to ISPs and the Internet. Intuitively, one would surmise that a preponderance of the traffic is interstate." Southwestern Bell Comments, March 24, 1997, at 12. In light of the current impossibility of measurement "because of the equipment and technology utilized by ESPs and ISPs," id., at 12, there is no doubt that continued "jurisdictional forbearance" is appropriate at this time, particularly given the absence of a "data-friendly" federal access arangement.

designed to meet the needs of ESPs, ESPs are left with no choice but to continue using the existing arrangements.[27]

C. The Commission Should Reject BellSouth's Proposal to Regulate Protocol Conversion Services As Common Carriage

BellSouth takes a somewhat different approach than the other LECs in a brief set of comments in that it argues that it cannot offer the type of high-speed data service that it would like to offer ESPs unless the Commission changes its rules to classify protocol processing services as regulated common carriage. If protocol processing were to be classified as regulated common carriage, then BellSouth and the other Bell Companies could offer it on an integrated basis with their basic services. While BellSouth acknowledges that protocol conversion presently can and is being made available on a deregulated basis, it asserts that "the complexity and additional cost of compliance with the Commission's rules render the service arrangement unacceptable."[28] BellSouth suggests that compliance with the FCC's safeguards requiring BOC separation of basic and enhanced services will cause it to incur more costs than it would prefer to incur in offering protocol conversion services.

As the Commission is aware, since the Computer II decision, the Commission probably has re-examined the regulatory status of protocol conversion services more often than it

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[27] The LECs' claims that ESPs will not move to new services as long as the ordinary business lines remain available are refuted by the increasing use by ESPs of more expensive trunk side connections, even though the pricing for such trunks by the LECs clearly fails to reflect appropriate cost causational principles. See CompuServe and Prodigy Comments, March 24, 1997, at p. 12, n. 21.

[28] Comments of BellSouth Corporation, at 6.

has re-examined any other issue in the agency's history. Each time the Commission has engaged in this exercise, it has held that protocol conversion services should remain unregulated enhanced services, not regulated basic services.[29] Thus, as recently as a few months ago, the Commission reiterated that it would not depart from its "existing practice" of treating protocol processing services as enhanced.[30]

The policy devised by the Commission in Computer II drawing a bright line between regulated basic services and unregulated enhanced services, including protocol conversion services, has served the American public well. A principal purpose of this policy, of course, was to implement a means of separating competitive enhanced services from basic services so the dominant local exchange carrier will not be able to unfairly disadvantage independent ESPs. In other words, the separation requirements are intended to be pro-competitive safeguards to prevent the Bell Companies from cross-subsidizing and otherwise favoring their own protocol processing offerings vis-a-vis the offerings of independent ESPs. Or, as the Commission recently put it, the separate affiliate safeguard "merely requires [the Bell

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29/ See, e.g., Ameritech Operating Companies Plan to Provide Comparably Efficient Interconnection, 5 FCC Rcd 3231 (Com. Car. Bureau 1990); Computer III Phase II Order, 2 FCC Rcd 3072, 7078 (1987), and the re-examinations and reconsiderations cited therein.

30/ Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, CC Docket No. 96-149, FCC 96-489, December 24, 1996, at para.53.

Companies] to negotiate the same organizational boundaries and service integration issues that their ISP competitors routinely face."[31]

Although BellSouth opines that its proposed integrated data network service would contribute to achieving the goals of the 1996 Telecommunications Act,[32] in fact, precisely the opposite is true. The intent of the 1996 Act is "to provide for a pro-competitive, de-regulatory national policy framework."[33] As explained above, BellSouth's proposal to integrate protocol conversion with its basic network service would be anti-competitive, not pro-competitive. And, BellSouth's proposal to reclassify protocol conversion as a basic service would bring within the Title II regulatory sphere heretofore unregulated services -- certainly a result at odds with the de-regulatory intent of the 1996 Act.[34]

31/ Id.

32/ Bell South Comments, at 7.

33/ Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 1 (1996).

34/ Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, CC Docket No. 96-149, FCC 96-489, December 24, 1996, at para. 105.

III. CONCLUSION

CompuServe and Prodigy urge the Commission to take actions consistent with the views expressed herein and in their initial comments.

Respectfully submitted,

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April 23, 1997

Their Attorneys

CERTIFICATE OF SERVICE

I, Teresa Ann Pumphrey, hereby certify that a copy of the foregoing **Reply Comments of CompuServe Incorporated and Prodigy Services Corporation,** was served by first-class mail, postage prepaid and by hand where indicated, this 23rd day of April, 1997, on the following persons:

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