U.S. SENATE COMMITTEE ON

Commerce, Science, and Transportation

JOHN McCAIN, Chairman

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OFFICE: FCC

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DATE: 5-5 TIME:

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FROM: Pete (202) 224-5184

SUBJECT: McCain/Burns to Hundt, 5/1/97

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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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Federal Communications Commission
Office of Secretary

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20036

Dear Chairman Hundt:

The Commission must shortly consider rules to implement the revised approach to universal service funding called for by the Telecommunications Act of 1996. Although not required by the statute, the Commission will also concurrently consider reform of its access charge rules.

Access charges currently contain implicit subsidies used, in part, to maintain universal service. The Telecommunications Act requires the Commission to identify these implicit universal service subsidies, make them explicit, and allow them to be recovered by eligible carriers, all of whom are also to contribute to universal service in an equitable and nondiscriminatory manner. The development of local telephone competition makes competitively fair and economically rational restructuring of universal service funding and access charges imperative.

We write today because we are concerned that some of the initiatives under consideration by the Commission appear inconsistent with fair and rational restructuring.

Proposals to raise the federal Subscriber Line Charge (SLC) on multiline business and residential subscribers are particularly troubling. In the first place, increasing the price of Internet connections by subjecting them to the access charge regime would not be in the public interest. To the extent multiple lines are used for Internet connections, raising the SLC would effectively raise the price of Internet connections. This type of increase would be discriminatory in terms of its impact on a particular technology and also in having a disproportionate effect on small business. Whether the FCC raises Internet connection rates by subjecting Internet connections to access charges or by raising the multiline SLCs for residences and businesses, the bottom line is the same -- rates are going to go up.

Proposals to tax wireless service providers an extra $1.00 per month are similarly flawed. Taxing only wireless service providers and subscribers is discriminatory in terms of both technology and impact. The discriminatory impact will be felt most severely by smaller paging

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companies and their subscribers, whose monthly bills currently run in the $4 to $7 range. Regardless of the precise amount at issue or the way it is imposed, however, the fact that paging companies are ineligible to draw from the universal service fund only emphasizes that they are not being treated in an equitable and nondiscriminatory manner. Any universal service funding obligation imposed on paging must reflect the fact that paging companies do not use telephone network facilities in the same way as local exchange carriers and other voice carriers.

We recognize the problem the Commission is facing. The Commission appears to be attempting to find a way to fund the Joint Board-recommended $2.25 billion annual new subsidy to provide internal Internet connections to schools and libraries, plus indeterminate added amounts for advanced telecommunications for health care facilities and low-income individuals. You understand the will of the Congress that the FCC not raise telephone rates to do this. So, to avoid raising rates for the single-line residential telephone subscriber, the Commission is apparently going to raise the rates that multiline residential, business and wireless subscribers will pay.

This is unacceptable. This plan appears designed to raise the revenue necessary to fund new universal service subsidies rather than to rationally restructure either access charges or existing universal service funding. We have previously cautioned you that any attempt by the Commission to implement one portion of universal service funding, without coherently and comprehensively implementing all parts of it, will not be economically rational, will unavoidably discriminate against some companies and subscribers, and will therefore fail to comply with the clear and unmistakable terms of the statute. It lessens neither the economic nor the legal pitfalls of so proceeding to say that the Commission would only be raising some subscribers' rates to pay for universal service, but not others'.

At the Universal Service Fund hearing the members of this Committee gave the Chairman what we considered to be a clear message. Congress did intend, and Congress does intend, all the provisions of Section 254, including existing subsidies for rural and high cost areas as well as the new subsidies for discounted rates for Internet connections for schools, libraries, and health care facilities, to be implemented by the Commission. At the same time, Congress did not intend, and does not intend, the FCC to raise telephone rates -- any telephone rates -- to do so.

If, after carefully studying universal service implementation for such an extended period of time, the Commission believes that new universal service funding that complies with the clear provisions of the Act cannot be implemented without raising telephone rates or otherwise distributing the costs of providing universal service in a discriminatory and unsound manner, the Commission must not implement flawed final rules simply to meet the May 8 deadline, regardless of the cost. Instead, the Commission should adopt final rules whose

effective date is tolled for a period sufficient to apprise the Congress of the nature of any rate increases, their likely effects, and why they cannot be avoided under the statute as written, and to allow for further refinement in either the rules, or in the statute, as may seem advisable to mitigate these results.

Let us make one other point very clear. There are other provisions of the universal service funding rules the Commission is reportedly considering that, in the judgment of many, are so incompatible with the terms of the 1996 Act as to pose a clear danger of being stayed on appeal. While it is not, and indeed should not be, our task to offer guidance to you on each and every one of your proposals that appears problematic, we would caution you that a stay imposed on all or a part of the rules you adopt will cause this Committee to revisit and correct the reasons for these repeated implementational failures.

Sincerely,

John McCain
Chairman

Conrad Burns
Chairman,
Subcommittee on Communications

JM/pb