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Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
Report to Congress On Universal Service Under The Telecommunications Act of 1996	)	CC Docket No. 96-45

COMMENTS OF THE INTERNET ACCESS COALITION

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SUMMARY

The Commission's prior interpretations of the statutory terms and definitions under review in this proceeding were required by both the letter and the spirit of the Telecommunications Act of 1996. In the Act, Congress declared that competition and competitive forces should govern the development of communications markets. In keeping with that pro-competitive approach, and with both the plain language and legislative history of the statute, the Commission's decisions interpreting key statutory terms have continued to allow competition, rather than regulation, to reign over the information services market.

The Commission's deference to the competitive forces at work in information services markets has produced an unprecedented level of technological innovation, consumer choice, and economically efficient pricing for information services. The development of a robust competitive market for information technology products and services has in turn stimulated demand for telecommunications and produced significant financial and technological benefits for telecommunications providers, including those who receive universal service subsidies, and their customers.

The Commission's interpretations of the terms under review in this docket not only preserve the competitive vigor of information services markets but also advance the universal service objectives in the 1996 Act. By refusing to distort the statutory terms in order to extend regulation to the competitive information services market, the Commission has left undisturbed the competitive dynamic

that has stimulated rapid growth in that market. The growth in the competitive information services market has in turn stimulated demand for telecommunications, thereby expanding the base of telecommunications services and customers from which universal service subsidies are recovered. As a result, the impact of universal service subsidies on individual customers has been reduced. In addition, like other customers of telecommunications providers, information service providers ("ISPs") are the ultimate payors of universal service costs because telecommunications providers who pay explicit universal service contributions pass that cost on to their customers in the form of higher rates. Thus, ISPs pay a variety of subsidy-laden charges that reimburse telecommunications providers for the costs of universal service.

The Commission should stand by its pro-competitive, de-regulatory approach to information services and remain faithful to the language and legislative history of the 1996 Act in which Congress affirmed the Commission's approach.

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COMMENTS OF INTERNET ACCESS COALITION

The Internet Access Coalition ("the Coalition") files the following comments in response to the Federal Communications Commission's ("FCC" or "Commission") January 5, 1998 Public Notice regarding the matter captioned above. The Coalition consists of companies and trade associations that represent all segments – hardware, software, and services – of the information technology industry. It is dedicated to maintaining the affordability of consumer access to the Internet and other information services via analog, circuit-switched telephone lines, and accelerating the deployment of efficient, affordable, and reliable broadband data communications services. The Coalition member associations include the American Electronics Association, the Business Software Alliance, the Consumer Electronics Manufacturers Association, the Information Technology Association of America, the Information Technology Industry Council, the Internet Service Providers and Users Association, the

Semiconductor Industry Association, the Software Publishers Association, and the Voice on the Net Coalition. Collectively, these associations represent more than 12,000 member companies.

The Coalition member companies include America Online Incorporated, Apple Computer, Inc., Compaq Computer Corporation, CompuServe Incorporated, Covad Communications, Digital Equipment Corporation, EarthLink Network, Inc., Eastman Kodak Company, GE Information Services, IBM Corporation, Intel Corporation, Microsoft Corporation, Netscape Communications Corporation, Novell, Inc., Oracle Corporation, and Sun Microsystems, Inc.

DISCUSSION

The Commission's interpretation of key terms and definitions in the Telecommunications Act of 1996[1] ("1996 Act" or "Act") is consistent with the plain language and legislative history of the Act. Both the Act and the Commission's decisions implementing the Act have continued to allow competition, rather than regulation, to govern the information services market. That deference to marketplace forces has produced an unprecedented level of technological innovation, consumer choice, and economically efficient pricing for information services and significant financial and technological benefits for telecommunications providers and their customers.

[1] Telecommunications Act of 1996, Pub L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. Section 151 *et. seq.*).

I. THE FCC's INTERPRETATIONS ARE REQUIRED BY THE PLAIN LANGUAGE AND LEGISLATIVE HISTORY OF THE 1996 ACT

In implementing the universal service provisions of the Telecommunications Act of 1996, the Commission properly determined that "information service providers (ISP) are not required to contribute to support mechanisms" because they do not provide "telecommunications" as that term is defined in the Act.[2] The Commission's conclusions are required by the statute. Section 254 of the 1996 Act requires or authorizes contributions only from entities who provide "telecommunications":

> Every telecommunications carrier that provides interstate *telecommunications services* shall contribute...to the...mechanisms established by the Commission to preserve and advance universal service. ...Any other provider of interstate *telecommunications* may be required to contribute to the preservation and advancement of universal service if the public interest so requires.[3]

The Commission properly concluded that this language does not authorize the collection of universal service contributions from ISPs.

The Commission's determination is based on its analysis of the statutory definitions of "telecommunications," "telecommunications service," and "telecommunications carrier." As discussed in detail below, the statute's definition of "telecommunications" refers only to basic telephone service and not to the information services provided by ISPs. As a result, the terms "telecommunications service" and "telecommunications carrier," both of which

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[2] *In the Matter of Federal-State Joint Board on Universal Service,* CC Dkt. 96-45, Report and Order, 12 FCC Rcd. 8776, at ¶ 788 (rel. May 8, 1997) ("Universal Service Order").

[3] 47 U.S.C. § 254(d).

incorporate the statutory term "telecommunications," refer only to the provision of telecommunications.[4]

The Commission's interpretation of the term "telecommunications" is also bolstered by the Act's definition of the term "information services," which makes clear such services are wholly distinct from the terms "telecommunications," "telecommunications service," and "telecommunications carrier."

The legislative history of the Act unequivocally supports the Commission's interpretation of these terms. As the Senate report accompanying the draft language that became Section 254 explained:

> [Section 254] does not require providers of information services to contribute to universal service. *Information services providers do not 'provide' telecommunications services*; they are users of telecommunications services. The definition of telecommunications service specifically excludes the offering of information services (as opposed to the transmission of such services for a fee) precisely to avoid imposing common carrier obligations on information services providers.[5]

Since Section 254 refers only to "telecommunications carriers" (requiring contributions from them) and providers of "telecommunications" (authorizing the Commission to require contributions from them), universal service contribution mechanisms cannot lawfully be extended to ISPs, who are not included in either category.

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[4] Universal Service Order at ¶ 784-85

[5] 47 U.S.C. § 254.

Accordingly, the Commission correctly concluded that Section 254 does not require or authorize the collection of universal service contributions from ISPs.

A. "Information Services"

The term "information service" is defined by the Telecommunications Act as

> the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information *via telecommunications*, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.[6]

The reference in the definition to "telecommunications" as the medium by which information service capabilities are offered ("via telecommunications") explicitly distinguishes "information services" from "telecommunications." If "information services" constituted "telecommunications," the use of the phrase "via telecommunications" would render the definition of "information services" circular and nonsensical. Similarly, other sections of the Act refer to both types of services, *e.g.*, Section 254(h)(2), which refers to both "information services" and "telecommunications."[7] The references to "information service" or "telecommunications" in these sections would be rendered mere surplus usage if

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[6] 47 U.S.C. § 153(20) (emphasis added).

[7] 47 U.S.C. § 254(h)(2). *See also* 47 U.S.C. § 254(b)(2) ("Access to advanced telecommunications *and* information services should be provided in all regions of the Nation.") (emphasis added).

"information services" were interpreted to constitute "telecommunications."[8] Because it would make superfluous the use of both terms, rather than giving meaning to all of the terms Congress chose to include in the statute, such an interpretation would be unreasonable.[9]

The legislative history of the definition of "information services" confirms Congress' intent to distinguish "information services" from "telecommunications." Specifically, it demonstrates that Congress sought to maintain the existing distinction between "basic" service, on the one hand, and "enhanced"[10] or "information" services on the other. The report accompanying the House of Representative's bill states that "'[I]nformation service' . . . [is] defined based on the definition used in the Modification of Final Judgment."[11] Similarly, the Senate, in the report accompanying its bill, commented as follows:

> New subsection (pp) defines "information service" similar to the FCC definition of "enhanced services." The Committee intends that the FCC would have the continued flexibility to modify its definition and rules pertaining to enhanced services as technology changes.

Thus, both the Senate and the House intended to maintain the distinction between "information service" and the basic services captured by the definition of

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[8] H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. 116 (1996) (The House recedes to Senate with amendments with respect to the definition[] of . . . "telecommunications."

[9] *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon,* 515 U.S. 687, 697-698 (1995).

[10] The Commission has announced that the services it previously denominated "enhanced services" are "information services" as that term is used in the 1996 Act. *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended,* CC Dkt. 96-149, First Report and Order, 11 FCC Rcd. 21905, at ¶ 102 (rel. Dec. 24, 1996).

[11] H.R. Rep. No. 204, 104th Cong., 1st Sess. 125 (1995).

"telecommunications" and related terms in the Telecommunications Act,[12] as explained in the next section.

B. "Telecommunications," "Telecommunications Service," and "Telecommunications Carrier"

The distinction Congress intended to make between "information services," on the one hand, and the terms "telecommunications," "telecommunications service," and "telecommunications provider," on the other, is also manifest from the language and statutory history of the definitions for the latter three terms.

1. "Telecommunications"

The Telecommunications Act defines "telecommunications" as

> the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.[13]

The language used in this provision makes clear that "telecommunications" refers only to the transmission of information, as distinguished from the generation, acquisition, storage, and transformation referenced in the definition of the term information services.

The legislative history of this definition supports the Commission's conclusion that "information services" do not fall within this definition of

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[12] Congress adopted the House's definition of the term "information services." H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. 116 (1996) (the Senate recedes to the House with amendments regarding the definition[] of "information service."

[13] 47 U.S.C. § 153(48).

"telecommunications." Congress adopted the Senate's definition of "telecommunications."[14] The report accompanying the Senate's bill states plainly that the term "telecommunications" "excludes those services . . . that are defined as information services."[15]

2. "Telecommunications Service"

For the same reasons articulated above, the plain language of the Telecommunications Act makes clear that Congress did not intend to include the term "information service" within the scope of "telecommunications service." The Telecommunications Act defines "telecommunications service" as

> the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.[16]

By incorporating the term "telecommunications" into this definition, Congress expressly limited "telecommunications service" to services that fall within the definition of "telecommunications." As noted in the previous section, the language and legislative history of the statutory definition for "information service" make plain that these services do not fall within the definition of "telecommunications," and thus "information service" also falls outside the scope of "telecommunications service."

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[14] H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. 116 (1996) (The House recedes to Senate with amendments with respect to the definition[] of . . . "telecommunications."

[15] S. Rep. No. 23, 104th Cong., 1st Sess. 17-18 (1995).

[16] 47 U.S.C. § 153(46).

The legislative history behind the definition of "telecommunications service" also supports this conclusion. Congress adopted the Senate's definition of this term.[17] The report accompanying the Senate's bill states that the term "'[t]elecommunications service' does not include *information services*, cable services, or 'wireless' cable services"[18] but it does include the transmission of such services.

3. "Telecommunications Carrier"

Because the term "telecommunications carrier" must also be interpreted in conjunction with the definitions of "telecommunications" and "telecommunications service," providers of information services do not fall within the definition of "telecommunications carrier" for the reasons identified above.

The Telecommunications Act defines "telecommunications carrier," in relevant part, as

> any provider of *telecommunications services*, except that such term does not include aggregators of telecommunications services.[19]

By specifying that "telecommunications carriers" are providers of "telecommunications services," Congress expressly limited the class of "telecommunications carriers" to providers of "telecommunications services," which services, as detailed above, do not include information services.

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[17] H.R. Conf. Rep. No. 458, 104 th Cong., 2d Sess. 116 (1996) (The House recedes to the Senate with respect to the definition of "telecommunications service.")

[18] S. Rep. No. 23, 104th Cong., 1st Sess. 18 (1995) (emphasis added).

[19] 47 U.S.C. § 153(44).

C. Mixed or Hybrid Services

Congress directed the Commission to review the application of the terms discussed above to "mixed or hybrid services" although the terms "mixed" and "hybrid" were not defined in the appropriations legislation. The statute defines "information services" and "telecommunications," however, and the Commission must ensure that its treatment of all services complies with those definitions, whether or not a given service can also be described as "mixed" or "hybrid." In light of the statutory definitions for "information services" and "telecommunications," the Commission must classify "mixed" or "hybrid" services as "information services" rather than "telecommunications service" and providers of such services should not be subjected to the mandatory or discretionary contribution requirements of Section 254 of the Act.

As noted above, the term "telecommunications service" refers only to basic transmission services provided on a common carrier basis. "Information services" refers to a broad spectrum of information processing capabilities made available "via telecommunications." A "mixed" or "hybrid" service would therefore appear invariably to be an "information service" since "information services" by definition "mix" together different services. According to the definition in the Act, "information services" use "telecommunications" service in conjunction with the capabilities for generating, acquiring, storing, etc., information identified in Section 153(20) – that is, information services "mix" the capabilities listed in the definition of information services with the telecommunications "via" which subscribers receive their information services.

Therefore, in order to comply with the statute, the Commission should treat "mixed" or "hybrid" services as "information services." The Commission should first attempt to include services in the categories created by Congress when it defined "information services" and "telecommunications services," rather than seeking in the first instance to force services into a new classification like "mixed" or "hybrid" for which Congress did not provide in the statute.

Congress classified the simple transmission of information, without more, as "telecommunications." Congress intended to distinguish such service from the "information services" that enable customers "via telecommunications" to generate, acquire, store, transform, process, retrieve, etc. information. The creation of some vague alternative class of "mixed" or "hybrid" services, that combine with "telecommunications" the various functionalities described in the definition of "information services," would be inconsistent with clear Congressional intent.

D. Imposition of Universal Service Funding Obligations on Information Service Providers Would Be Inconsistent With Clear Expressions of Congressional Intent

Any attempt to impose universal service funding obligations on providers of information services would be inconsistent with clear statements of Congressional intent.

In the policy and findings that appear in Section 230 of the Act, Congress concluded that the Internet and other interactive computer services have

"flourished, to the benefit of all Americans," as a result of minimal government regulation.[20] It also determined that that the policy of the United States would be

> 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.[21]

Any re-interpretation of the terms "telecommunications" or "information services" that reclassified "information services" as "telecommunications" would impose upon providers of Internet or other computer based service the full panoply of regulation applicable to "telecommunications" providers, in addition to universal service subsidy payments, which would clearly be inconsistent with the Congressional findings and policy pronouncements in Section 230.

Moreover, as noted above, the Senate report accompanying the draft section which became Section 254 in the 1996 Act stated:

> [Section 254] does not require providers of information services to contribute to universal service. Information services providers do not "provide" telecommunications services; they are users of telecommunications services. *The definition of telecommunications service specifically excludes the offering of information services* (as opposed to the transmission of such services for a fee) *precisely to avoid imposing common carrier obligations on information services providers.*

The Commission could not re-classify ISPs as providers of "telecommunications" without violating this clear expression of Congressional purpose.

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[20] 47 U.S.C. § 230(a)(4).

[21] 47 U.S.C. § 230(b)(2).

II. THE FCC's INTERPRETATIONS ARE CORRECT AS A MATTER OF POLICY

As described in the preceding section, the FCC correctly interpreted the Act's definitions, based on both the plain language and the legislative history of the statutory provisions defining the relevant terms. The Commission's interpretations are also consistent with long-standing rules and policies governing the collection and distribution of universal service subsidies.

A. ISPs Pay Their Fair Share Of The Universal Service Subsidy

The universal service objectives of Section 254 are currently furthered through two funding mechanisms: *explicit* contributions to reimbursement mechanisms for high-cost telephone companies and special funds for schools, libraries and health care providers, and *implicit* subsidies created by raising the rates of targeted customer groups. The Commission's universal service decisions collect explicit contributions only from providers of "telecommunications" who in turn collect those contributions from their customers in the form of higher rates. Implicit subsidies are paid by end users in the form of higher rates.

In short, carriers who *contribute* to universal service subsidies pass their payments on to their customers in the form of higher rates.[22] Carriers who are eligible to *receive* subsidies from the universal service mechanism also pass on to their customers their higher costs of service (to the extent that their costs are

[22] In theory at least, carrier recipients pass their subsidy on to their customers in the form of lower rates.

not covered by the universal service subsidy they receive) in the form of higher rates. Thus, it is the *customers* of telecommunications providers, not the providers themselves, who ultimately pay both the implicit and explicit support mechanisms, whether the costs of universal service are buried in higher rates or charged directly in an explicit flow-through charge . And ISPs are among the carriers' largest customers.

As customers of long distance telecommunications service providers, ISPs pay universal service subsidies through a variety of charges. ISPs reimburse interexchange carriers ("IXCs") for universal service contributions whenever IXCs raise their rates to "flow through" their universal service contributions and the higher carrier access charges they pay to local exchange carriers ("LECs") for certain services (*e.g.*, higher primary interexchange carrier charges or "PICCs" for business customers). See, for example, the "flow-through" letter attached to this pleading which was recently sent by MCI to its customers informing them that MCI will be increasing its rates in order to pass-through universal service subsidy charges.

ISPs also subsidize universal service costs through the charges they pay to the LECs for local business service. In addition, one of the biggest dollar bonanzas for the LECs in recent years has been the surge in demand for residential second lines, attributable in large part to the customers of ISPs who want a second line for computer use. ISP customers pay above-cost second line charges for such service which subsidize primary line service. The LECs' profits

on second line charges are significant and have been cited by the LECs themselves to explain their record revenues.[23]

In the name of universal service, ISPs and their customers also pay higher interstate access charges. ISPs pay the multi-line business subscriber line charge ("SLC"), which is set at higher levels than the residential and single line SLC. In addition, ISPs' customers pay a SLC for their second lines that is higher than the SLC subscribers pay for their primary lines.

The subsidy-laden charges identified above are paid by ISPs and all multi-line business customers of the carriers. ISPs therefore contribute to the costs of universal service like all other business users of the public switched network. To force ISPs into the "carrier" category by classifying their services as "telecommunications" would not only be antithetical to the 1996 Act, as discussed above, but would unjustifiably and unfairly single out ISPs among all users for disparate treatment. Like catalogue sales companies or reservation centers or any other telecommunications customer who uses telecommunications to deliver innovative services more efficiently, ISPs should pay reasonable, cost-based rates. Pending the development of a competitive market to discipline the ILECs' costs and prices, the Commission should resist attempts to further distort marketplace pricing with uneconomic subsidies.

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[23] Economics and Technology, Inc., "The Effect of Internet Use on the Nation's Telephone Network," (Jan. 22, 1997) at 25-26.

B. Regulation Is Unnecessary And Counter-Productive For A Fully Competitive, Unregulated Market

ISPs operate in a vigorously competitive marketplace characterized by low prices, innovative products, and consumer choice. Had the Commission ignored the plain language and legislative history of the 1996 Act and classified ISPs as providers of "telecommunications," the vigorously competitive information services market would have been subjected to a pervasive regulatory scheme developed for monopoly providers of commodity transmission services. That result would have been patently inconsistent with the purpose and policies underlying the Act.

As the Commission,[24] the courts,[25] and Congress[26] have repeatedly recognized, regulation is unnecessary and counter-productive in markets with robust competition like the information services market. The unregulated,

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[24] *See, e.g., Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act, as amended*, CC Dkt. 96-61, Order, FCC No. 97-357 (rel. Oct. 3, 1997); *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act, as amended,* CC Dkt. 96-61, Order on Reconsideration, FCC No. 97-293 (rel. Aug. 20, 1997); *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act, as amended,* CC Dkt. 96-61, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd. 11812 (rel. Jul., 30, 1997).

[25] *See, e.g. Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor* (CC Docket No. 79-252), Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979); First Report and Order, 85 FCC 2d 1(1980); Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981); Second Further Notice of Proposed Rulemaking, FCC No. 82-187, 47 Fed. Reg. 17, 308 (1982); Second Report and Order, 91 FCC 2d 59 (1982), recon., 93 FCC 2d 54 (1983); Third Further Notice of Proposed Rulemaking, 48 Fed. Reg. 28,292 (1983); Third Report and Order, 48 Fed. Reg. 46, 791 (1983); Fourth Report and Order , 95 FCC 2d 554 (1983), vacated, *AT&T v. FCC*, 978 F. 2d 727 (D.C. Cir. 1992), rehearing *en banc* denied, January 21, 1993; Fourth Further Notice of Proposed Rulemaking, 96 FCC 2d 922 (1984); Fifth Report and Order, 98 FCC 2d 1191 (1984), recon., 59 Rad Reg. 2d (P&F) 543 (1985); Sixth Report and Order, 99 FCC 2d 1020 (1985), rev'd *MCI Telecommunications Corp. v. FCC*, 765 F. 2d 1186 (D.C. Cir. 1985); *MCI Telecommunications Corp. v. American Telephone and Telegraph, Co.*, 114 S. Ct. 2223 (1994).

competitive information services market has been a fertile source of innovative products and applications whose beneficiaries include not only consumers but regulated providers of telecommunications. Thanks in no small part to the innovative offerings and consumer demand spawned by the development of an information services market, providers of telecommunications have experienced record growth and revenues to support universal service objectives.

The de-regulated growth of the information services market has a profound positive impact on universal service policies. As a result of the increased demand for telecommunications, stimulated by product innovation and price competition in the unregulated information services market, both the ILECs and the IXCs have reaped substantial benefits in the form of higher demand and far greater revenues than they would otherwise have earned. By stimulating demand for revenue-producing minutes and lines, ISPs and their subscribers have expanded the base of customers and traffic from which universal service costs must be recovered, thereby reducing the incremental rate increase consumers would otherwise have experienced due to universal service subsidy contributions.

By refusing to classify ISPs as providers of "telecommunications," the Commission properly recognized that Congress did not, through the 1996 Act, make any attempt whatsoever to regulate the competitive information services market. Indeed, had Congress wished to implement through the 1996 Act so

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[26] *See, e.g* 47 U.S.C. § 10.

misguided a sea change in the regulatory treatment of ISPs, it would have done so explicitly. No such provisions appear anywhere in the Act. Instead, Congress included provisions (like Section 230, discussed above) establishing the opposite policy towards information services: Congress recognized that a fully competitive information services market furthers universal service policies more effectively and more efficiently than any effort to subject a competitive ISP market to regulation.

III. THE FCC's INTERPRETATION HAS NO IMPACT ON THE PROVISION OF UNIVERSAL SERVICE

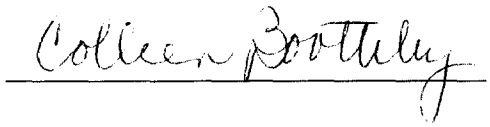
Congress directed the Commission to assess the impact on universal service of its statutory interpretations. The simple truth is that the Commission's interpretations of the disputed definitions will have no adverse impact whatsoever on universal service funding because of the mechanisms by which universal service subsidies are sized and collected.

The size of the universal service fund is determined by the costs of subsidy *recipients*, whether the costs are actual costs reported by the ILECs or benchmark costs calculated through the use of computer modeling techniques. In either case, the amount of the fund does not vary with the number or identity of fund *contributors*, although the contributors' *pro rata* shares may vary. Subsidy recipients will receive the same dollar amount for the provision of universal service whether or not ISPs are required to contribute. Accordingly, the Commission's determination that "telecommunications" does not include information services has no impact on universal service funding levels.

CONCLUSION

The Commission's interpretation of the statutory terms discussed above follows the pro-competitive, de-regulatory road map for information services that Congress drew in the 1996 Act and that the Commission has followed for over a decade. The Commission's preference for competition rather than regulation in the information services marketplace has spurred unprecedented growth in that market, which has in turn stimulated significant demand and economic growth in telecommunications to the benefit of the universal service policies articulated in the 1996 Act. Accordingly, the Commission's report to Congress should affirm its previous interpretations of the terms discussed above and conclude that the universal service policies underlying the Act have been well-served.

Respectfully submitted,



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ATTACHMENT

networkMCI

FCC Order on Telecommunications Access Reform and Federal Universal Service Fee MCI Compliance Information for Business Customers

December 1997

Overview - Access Reform and Federal Universal Service Fee

The FCC has changed the rules relating to the charges that all long distance carriers must pay to access local networks and support universal service programs. These new rules result in several significant costs that must be addressed by all long distance providers.

MCI's need to remain competitive in today's marketplace necessitates that we begin passing through these new access and universal service subsidy costs to business customers beginning January 1, 1998.

I. Access Reform: National Access Fee

The **National Access Fee (NAF)** results from the fact that the Local Exchange Carriers have received permission to change the way they charge long distance carriers for access to their networks. These access charges will shift from a per-minute basis to a per-line basis. This shift means that zero usage lines will now be assessed per-line charges. These NAF charges go directly to the LEC via pass through from the interexchange carrier.

How will you, an MCI business customer, be impacted by the NAF? Beginning January 1998, the following charges will be assessed monthly for all MCI business customers depending upon line type:

- $2.75 per pre-subscribed switched line
- $13.75 per switched PRI line
- $.31 per Centrex line

- Charges are assessed at the WTN (ANI) level to ALL lines, including zero usage lines

Your MCI Account Team can provide charges specific to your organization's line configuration.

II. Federal Universal Service Fee

The **Federal Universal Service Fee (FUSF)** will apply to business and residential users of telecom services. MCI has chosen to fund its required universal service pool contribution via these fees. The pool of contributions will create a national revenue pool to provide supported telecom services. Each telecom provider's contribution to the fund is based upon gross revenues, and this fund will be administered by an independent overseer.