

PIPER & MARBURY

L.L.P.

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-2430

202-861-3900
FAX: 202-223-2085

BALTIMORE
NEW YORK
PHILADELPHIA
EASTON

WRITER'S DIRECT NUMBER
202-861-6471

EX PARTE OR LATE FILED

July 21, 1998

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RECEIVED

JUL 21 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORIGINAL

Re: Ex Parte Presentations
CC Dkt. Nos. 98-11, 98-26, 98-32, 98-91, 98-78, RM 9244

Dear Ms. Salas:

In accordance with the Commission's *ex parte* rules, this letter is to notify you that the Commercial Internet eXchange Association ("CIX") met today with James Casserly of Commissioner Ness' office to discuss the above-captioned proceedings with regard to the implementation of Section 706 of the 1996 Act. Attending the meeting for CIX were Glee Harrah Cady of NETCOM On-Line and Ronald Plesser and Mark O'Connor of Piper & Marbury, LLP.

During the meeting, CIX urged the Commission to consider several issues affecting the ISP industry as it makes decisions on Section 706 implementation. CIX is concerned that incumbent local exchange carriers ("ILECs") have failed to explain how independent ISPs would be offered equal access to customers (or resale), and how customers can obtain the ISP of their choice, as the ILECs deploy advanced telecommunications services, including xDSL services. This is critically important because, while the ILECs maintain their "bottleneck" on local telecommunications, the vibrant ISP industry has made Internet access a reality for the vast majority of American consumers. CIX believes that ILECs can and should promote advanced service offerings that encourage a competitive ISP industry. CIX also expressed its concern that data transport services offered to ISPs should be provided on a competitive basis. The

No. of Copies rec'd 11
List ABCDE

Ms. Magalie Roman Salas
July 21, 1998
Page 2

discussion generally focussed on the issues raised in the attached talking points, a copy of which was distributed at the meeting.

Please find attached 11 copies of this letter for inclusion in each of the above-referenced dockets. Should you have any questions, please contact the undersigned.

Sincerely,



Mark J. O'Connor
Counsel for the Commercial Internet
eXchange Association

MJO/cce

cc: James Casserly

Internet Service Providers ("ISPs") And Implementation of Section 706 of the 1996 Act

Independent ISPs seek competitive and efficient access to advanced telecommunications services in order to continue to promote the Internet. As the nation's local telecommunications for data evolves and transitions towards broadband services, it is appropriate for the FCC to ensure the transition keeps the competitive ISP market intact, in the following ways:

Structural/Transactional Issues:

Incumbent local exchange carriers ("ILECs") provide both in-region ISP services and sell the essential telecommunications inputs to competing ISPs. The deployment of new ILEC broadband services raises the potential for monopoly abuse against independent ISPs and other end users. The FCC should consider:

- *ISP Safeguards:* stronger regulatory safeguards/enforcement ensuring that all independent ISPs have at least equal pricing, terms, and conditions of service that are provided by the ILEC to its affiliated ISP; and
- *Separating Retail from Wholesale Incentives:* ILECs that participate in the retail ISP market also supply ISP competitors with essential telecommunications inputs, which invariably leads to abuse. The FCC should explore ways to separate ILEC's retail and wholesale functions. A data separate subsidiary under the same corporate parent retains the economic incentives for ILEC to "cheat" on regulatory objectives.
- *End User Choice:* A right of end users to choose among competing ISPs and CPE for the provision of advanced telecommunications services; ILEC networks should support end user choice. In this way, a choice of competitive services are available to consumers.

Transport/Interconnection Issues:

ILEC services (e.g., ATM, Frame Relay) connect the ILEC's advanced network to the ISP. The ILEC's terms of service to ISPs have a significant impact on ISP access and the cost of

providing Internet service. Non-discriminatory, efficient, and competitive provision of such ILEC services must be encouraged with:

- clarification that interconnection obligation applies to ILECs' data networks;
- encouraging data competitive access providers (DCAPs) by unbundling the ILEC's ADSL service from the metropolitan area data transport. ISPs may choose among competing transport carriers to gain access to the ILEC offices.
- Independent ISP access to ILEC data networks on same price, terms, conditions as ILEC ISP affiliate.

CLEC Competition Issues:

ISPs will need CLEC-based advanced telecommunications competition to: obtain cost-based telecommunications; encourage ILEC's to serve ISPs better; and to encourage telecommunications innovation for additional Internet-based communications. CLEC competition can help sustain a competitive Internet industry only with:

- *Collocation* at ILEC offices on terms that are more efficient and flexible;
- *Interconnection* at points of aggregation, including remote terminal units of a DLC system;
- *UNE Access to Conditioned Loops* in a timely and cost-based manner;
- *UNE access to electronics* used by ILEC to provide advanced services;
- ILEC collocation/unbundling must permit CLECs to deploy a range of equipment/technologies demanded by end-users; and,
- Swift and effective enforcement of these rights.

For further information, please contact:

Ronald Plessner, Piper & Marbury, LLP (861-3969)

Mark O'Connor, Piper & Marbury, LLP (861-6471)

Commercial Internet eXchange Association Members
June 1998

@ Home	Communications	Racal-Integralis (QUZA)
a2i Communications	Netcom Canada	RACSAnet
AboveNet	Netcom Internet Ltd.	Renater
Aliant Communications	Inet, Inc.	Sprint
Apex Global Information Services	InfoCom Research Inc.	Southwestern Bell Internet
Asociados Espada	Intermedia Communications Inc.	Pacific Bell Internet
AT&T	Digital Express Group	Telecom Finland
AT&T Jens Corporation	Internet Exchange Europe	Teleglobe, Inc
Atson, Inc.	Internet Initiative Japan (IIJ)	Telewest Communications, Ltd.
Bekkoame Internet, Inc.	Interpath	The Internet Mainstreet (TIMS)
Bell Atlantic Internet Solutions	IPF.Net International	The OnRamp Group, Inc.
British Telecom	ITnet SpA	TogetherNet
Cable & Wireless Internet Exchange	JTNET Research Institute	Tokai Internetwork Council
CERFnet	Kokusai Denshin Denwa, (KDD)	Tokyo Internet Corporation
Commexo	Korea Telecom	Toyama Regional Internet Organization
CRL Network Services	LDS I-America	U-NET Ltd.
Crocker Communications	Logic Communications	VBCnet (GB) Ltd
CTS Network Services	Logic Telecom S.A.	Verio
Data Research Associates, Inc.	MediaOne	Verio Northwest
DataXchange	MIND (Mitsubishi Electric Network Information Co.)	Verio Northern CA
Datanet Communications Ltd.	NEC Corporation	Verio Southern CA
Demon Internet Limited	NetDirect Internet	Verio Colorado
Easynet Group Plc	netINS, Inc.	Verio Texas/Gulf South
Electronic Systems of Richmond	NETRAIL	Verio Midwest
EPIX	NetVision	Verio Mid-Atlantic
Epoch Networks Inc	Netway Communications	Verio Northeast
e.spire Communications	Network Solutions	Verio Washington DC
Cybergate, Inc.	Octacon Ltd.	VoiceNet
EuroNet Internet BV	Osaka Media Port Corporation	Voyager Networks, Inc.
Exodus Communications	OTSUKA SHOKAI Co.,Ltd	Web Professionals
Fiber Network Solutions, Inc	Pilot Net Services	WebSecure
Fujitsu Limited	Planet Online Ltd.	Winstar Goodnet
GetNet International	PSINet	WorldCom
Global Center	PSinet UK	ANS CO+RE Systems
GST Internet, Inc.	PSinet Netherlands	Compuserve
GTE Internetworking	PSinet Belgium	Fibrcom, Inc.
BBN Planet	PSinet Germany	GridNet International
Genuity, Inc.	PSinet Europe	UUNET Technologies
Nap.Net	PSinet Japan	UUNET UK
Hitachi	Calvacom SA	UUNET Canada
Hurricane Electric	Internet Proflink SA	UUNET Deutschland
IBM Global Network	iStar Internet	UUNET Belgium
Icon CMT	Puerto Rico Telephone	Wyoming.com
ICG Communications, Inc.	Qwest Communications	
Netcom Online	EUNet BV	

Vendor Members

Digital Equipment Corporation	Global Networking & Computing	Red Creek Communications
Dimension Enterprises	Hewlett Packard	Sun Microsystems
Globalink	i-Pass	