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September 25, 1998

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Re: CC Docket No. 98-147

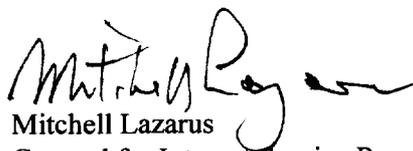
Dear Ms. Salas:

Enclosed are the original and four copies of the Comments of the Internet Service Providers' Consortium for filing in the above-referenced docket.

Kindly date-stamp and return the extra copy of this cover letter.

If there are any questions about this filing, please call me at the number above.

Respectfully submitted,


Mitchell Lazarus

Counsel for Internet Service Providers' Consortium

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Before the
Federal Communications Commission
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)

CC Docket No. 98-147

**COMMENTS OF
THE INTERNET SERVICE PROVIDERS' CONSORTIUM**

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SUMMARY

The greatest demand for advanced telecommunications services will come from those seeking faster access to the Internet. Most subscribers reach the Internet through an ISP, and most will continue to use ISPs as advanced services evolve into the marketplace. The Internet Service Providers' Consortium (ISP/C) is the voice of independent ISPs.

The RBOCs and GTE not only are competitors of the independent ISPs for the same retail ISP customers, but are also essential providers to most ISPs, which depend on the RBOCs or GTE for local loops and data lines. This combination gives the RBOCs and GTE both the incentive and the opportunity to discriminate against independent ISPs.

Advanced services are basic services under Computer III, and so are fully subject to ONA requirements. The RBOCs and GTE must unbundle advanced services and make them available to competing ISPs at nondiscriminatory rates, terms, and conditions.

Allowing the ILECs to offer advanced services through structurally separate affiliates may help to protect CLECs from anticompetitive behavior, but will do nothing to protect “pure ISPs” — those that are not also CLECs. Thus, the ONA regime is still needed under the Commission's separation proposal. Moreover, the advanced services affiliate must be brought under the same ONA requirements, including the present ONA tariffing obligations, as the parent company. Otherwise the RBOCs and GTE will completely escape Computer III regulation as to advanced services, at the expense of the independent ISPs.

The imposition of ONA safeguards will continue to be necessary even if CLECs enter the advanced services market. Without ONA controls on the RBOC or GTE, a rational CLEC has

every incentive to overcharge independent ISPs for advanced services, at or near the RBOC/GTE level, while providing the same services to its own ISP operations at cost.

Some ISPs have had trouble in the past with delayed or inferior service from RBOCs and GTE, and with overcharges and improper marketing practices. The ISP/C proposes an easy and inexpensive enforcement mechanism to help alleviate these and other anticompetitive practices.

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Washington DC 20554

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**COMMENTS OF
THE INTERNET SERVICE PROVIDERS' CONSORTIUM**

The Internet Service Providers' Consortium (ISP/C) hereby submits these Comments on the Notice of Proposed Rulemaking in the above-captioned proceedings.¹

These comments respond primarily to Paragraph 102 of the Notice. They address the effect of proposals for an advanced services affiliate on the market for information services, particularly the market for Internet Service Providers (ISPs).

For the reasons set out in detail below, the ISP/C urges the Commission to apply Computer III ONA requirements to the advanced services affiliate of an RBOC or GTE in the same way that they apply to the parent company.

¹ Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-78, 98-91, CCB/CPD No. 98-15, RM 9244, Memorandum Opinion and Order, and Notice of Proposed Rulemaking, FCC 98-188 (released Aug. 7, 1998) ("Notice").

I. INDEPENDENT ISPs ARE A VITAL PATHWAY BETWEEN THE PUBLIC AND THE INTERNET.

The greatest demand for advanced telecommunications services, at least for the foreseeable future, will come from those seeking faster access to the Internet.² Today most subscribers reach the Internet through an ISP, and most will continue to use ISPs for Internet access as advanced telecommunications technologies evolve into the marketplace. ISPs are in the business of providing retail-level access to the Internet to anyone with a computer and a phone line (or other means of connection). Without the ISPs, only entities large enough to maintain their own networks could have Internet access. ISPs make the Internet universal and ubiquitous.

Independent ISPs are companies whose primary business is providing Internet services. The independents are ISPs *other than* divisions of telephone companies like GTE and the RBOCs, on-line content providers like AOL and CompuServe, or software companies like Microsoft. In addition to serving consumers, independent ISPs typically work with the small businesses of their communities — companies and organizations that lack their own information services personnel and Internet expertise, and hence often demand considerable attention and resources from their ISPs. Many of these subscribers require assistance with individualized

² The Commission defines "advanced services" as "wireline, broadband telecommunications services, such as services that rely on digital subscriber line technology (commonly referred to xDSL) and packet-switched technology." Notice at ¶ 3.

installations and employee training, and depend on web sites designed and maintained by the ISP for their presence on the Internet. Some ISPs specialize in serving particular industries (health care, for example), and are able to offer industry-specific subject-matter expertise along with conventional Internet services. Together, small-business subscribers and individuals average about 85% of an independent ISPs' customers.

The independent ISPs can offer their subscribers levels of time and energy that the large providers could never muster. Reaching out to their communities, independent ISPs create classes, software, and texts to assist the elderly, youth, and other populations who tend to be late or underfunded entrants to the Internet. Many independent ISPs have long translated their concern for community affairs into Internet access for local governments, schools, and libraries. Typically the independent ISPs also provide technical support and training, sometimes through reduced-charge or free accounts. Their work has often given these community institutions their first Internet outreach. In short, the independent ISPs focus closely on their local communities and respond to local needs. A Commission official has informally (but accurately) described the independent ISPs as “mom-and-pop shops who get grandmas online.”³

³ From one independent ISP:

"We're the homey company with a local office who gives free classes for all the retirees and we let them bring in their computers if they don't work and we'll fix them. They can call and ask us all kinds of stupid questions They can come in and tell jokes and ask what kind of modem they should buy and they send us the neatest compliments and tell us how great we are. What great subscribers we have! The oldest is 92 and she golfs every day and uses the internet at night.

"We'll go to people's homes and set them up at no charge if they are handicapped. The biggies can't touch us. We also teach other 'Interest Seminars' like how to do genealogy on the internet or how to set up your financial portfolio. We also teach

Independent ISPs are a small-business success story in their own right. From only a handful of ISPs in 1995, the industry has grown to between 5,000 and 7,500 independent ISPs in the United States today. About 85% are themselves small businesses, with average revenues of about \$375,000. Most have between one and ten employees, and are growing. Collectively, all independent ISPs account for 50 percent of the U.S. ISP market. They also create an increasing number of highly skilled technical positions in the United States and abroad.

The independent ISPs have led the expansion of the Internet into the fastest-growing communications medium in the history of civilization. Years before the telephone companies and other large providers showed any interest, it was the independent ISPs — some of them launched by the same people who helped to create the Internet — that risked their own assets to develop the growth market of the decade. They are still the only means of access to the Internet by a local call in most rural and small-market areas. Everywhere, the independent ISPs contribute more than their share of the vitality and diversity that enables millions of people to use the Internet daily to improve and enrich their lives.

About the Internet Service Providers' Consortium. The ISP/C is the largest trade association for small to mid-size ISPs and other members of the Internet services industry. (A

how to use search engines and how to upload & download as well as how to do web pages. Once they take that class they usually hire us to do the web pages.

[. . .]

"No big outfit wants to come here - there just isn't enough volume. We even sell our service as the cheaper option to paying long distance charges to AOL. They can dial in to us, lower their AOL bill to \$9.95 per month and our \$25 makes their \$X00 phone bills look like the national budget."

list of members is attached as Appendix A.⁴) Founded in 1996, the ISP/C now includes over 230 company members, up 200 percent in the last year alone. ISP/C members provide local and backbone Internet access, online content, and hardware and software for the industry. Members of ISP/C have over 1 million subscribers in the aggregate, with headquarters in more than 42 U.S. states and 10 countries. Most members serve local or regional markets, and increasingly specialize in services for specific industries and personal attention for those who need it.⁵

The ISP/C welcomes members regardless of size and geographic location. It has emerged as the voice for independent ISPs.

II. THE COMMISSION MUST REQUIRE NOT ONLY THE RBOCs AND GTE, BUT ALSO THEIR AFFILIATES, TO PROVIDE SERVICES TO COMPETING ISPs ON A NONDISCRIMINATORY BASIS.

Paragraph 102 of the Notice correctly notes that some incumbent LECs also operate ISP services,⁶ and asks whether an ILEC's advanced services affiliate would favor the ILEC's ISP operation. The same paragraph also asks (1) whether competing ISPs could offer service to customers of the ILEC's advanced services affiliate, and (2) whether the ILEC and its advanced services affiliate together would have the incentive and ability to engage in a "price squeeze" on independent ISPs.

⁴ Not all members listed in Appendix A have individually reviewed and approved this pleading.

⁵ Additional information about the ISP/C is available at <http://www.ISPC.org>.

⁶ In fact, the ILECs serving the vast majority of U.S. telephone subscribers are in the ISP business.

We explain below that the affiliate has both the means and the incentive to favor the parent's ISP business, and we show how the affiliate/parent combination can discriminate against competitors. Without controls, moreover, the affiliate could easily keep competing ISPs from serving the affiliate's customers.

The ISP/C proposes a simple remedy for all of these abuses: Bring the affiliate under the parent's ONA obligations.

A. Independent ISPs Both Compete With the Local RBOC or GTE for Retail ISP Business and Depend on That Company's Facilities.

All of the RBOCs and GTE are in the ISP business. They compete directly with independent ISPs for the same retail Internet customers. At the same time, most independent ISPs depend on an RBOC or GTE for the multiple local loops, and other facilities, that customers must use to reach the ISP, and for data lines that connect the ISPs to the Internet backbone. The RBOCs and GTE thus have every opportunity — and every incentive — to misuse their facilities monopoly to discriminate against independent ISPs in order to build up their own ISP businesses.

These concerns are not merely hypothetical. Many independent ISPs can provide detailed accounts of RBOC or GTE behavior that an impartial observer would have to describe as intentional discrimination. These include:

- substantial delays in furnishing of additional lines, while the RBOC or GTE expands its own ISP operations;

- identification of the independent ISP's customers for marketing of the carrier's ISP services;⁷
- routinely forwarding callers who ask about the carrier's support of new transport technologies (such as ADSL) to the carrier's own ISP operation;
- selective degrading of service on independent ISP dial-up business lines;⁸ and
- marketing "improved" or "reliable" ISP service to customers of the independent who are frustrated by problems resulting from degraded RBOC/GTE lines.

Absent restraints, a carrier's exercise of rational self-interest, coupled with its facilities monopoly, will inevitably lead it to discriminate in order to hinder competition. Indeed, the carrier's duty to its shareholders requires it to maximize profit — within regulatory constraints. The Commission has long recognized that anticompetitive behavior on the part of carriers must be restrained through appropriate regulation, at least until competition becomes strong enough to exert control through market forces. Without regulation in the interim, real competition will never have a chance to emerge.

As we show below, permitting an ILEC to establish an affiliate for advanced services in itself will do nothing to protect ISPs from anticompetitive behavior. To maintain a competitive market for ISP services, it will be necessary to include the RBOC or GTE advanced services affiliate under the parent's ONA obligations.

⁷ A carrier's benefitting from its knowledge that particular subscribers connect to an independent ISP violates the rules governing customer proprietary network information (CPNI). "A telecommunications carrier may not use, disclose or permit access to CPNI to identify or track customers that call competing service providers." 47 C.F.R. § 64.2005(b)(2).

⁸ Some ISPs also report abuse of the carrier's repair and maintenance procedures to reposition or redeploy facilities used by the ISP without notifying the ISP.

B. Advanced Services are Fully Subject to Computer III ONA Requirements.

Advanced services are basic services under Computer III. The Commission has held that advanced services are "telecommunications services" as defined in the Act.⁹ It follows that the physical character of advanced services comes within the term "telecommunications," defined 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.¹⁰

The Commission explained why "telecommunications" includes advanced services:

xDSL and packet switching are simply transmission technologies. To the extent that an advanced service does no more than transport information of the user's choosing between or among user-specified points, without change in the form or content of the information as sent and received, it is "telecommunications," as defined by the Act.¹¹

This characterization of advanced services is indistinguishable in practice from the definition of "basic service" that governs Computer III:

a pure transmission capability over a communications path that is virtually transparent in terms of its interaction with customer supplied information.¹²

⁹ Notice at ¶ 35. "Telecommunications service" means "the offering of telecommunications for a fee directly to the public. . . regardless of the facilities used." 47 U.S.C. § 153(46).

¹⁰ 47 U.S.C. § 153(43).

¹¹ Notice at ¶ 35.

¹² Second Computer Inquiry, 77 F.C.C.2d 384, 420 (1980).

Indeed, the Commission has held that Congress intended "telecommunications" in the 1996 Act to parallel "basic service" under Computer III.¹³ It follows that advanced services are "basic services" under Computer III.

Because advanced services are basic services, they are fully subject to Computer III ONA requirements. The Commission agrees:

We note that the BOCs offering information services to end users of their advanced service offerings, such as xDSL, are under a continuing obligation to offer competing ISPs nondiscriminatory access to the telecommunications services utilized by the BOC information services.¹⁴

This "continuing obligation" means that the RBOCs — and also GTE, which is equally subject to ONA¹⁵ — must unbundle basic services, including advanced services, and make them available to competing ISPs at nondiscriminatory rates, terms, and conditions.¹⁶ (Under the separate requirements of Section 251, the carrier must also unbundle and separately tariff ATM or other transport from its central office to subsequent destinations, and make it available to CLECs.) Compliance with these Computer III provisions will ensure that an ISP operated by an

¹³ Federal-State Joint Board on Universal Service, 13 FCC Rcd 11501, 11511 (1998).

¹⁴ Notice at ¶ 37. No party has challenged this conclusion of the present Memorandum Opinion and Order, which is no longer subject to requests for reconsideration.

¹⁵ GTE was brought under Computer III regulation in 1994. Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, 9 FCC Rcd 4922 (1994).

¹⁶ Any interstate tariff for an advanced service must reflect this unbundling. Filing and Review of Open Network Architecture Plans, 5 FCC Rcd 3084, 3089 at ¶ 43 (1990). The Commission likewise has authority to require appropriate ONA provisions in state tariffs. Filing and Review of Open Network Architecture Plans, 5 FCC Rcd 1, 148 at ¶ 283 (1988).

RBOC or GTE must function without any unfair advantage stemming from its affiliation with the local monopoly facilities provider. The carrier will not be hindered in any way, except by having to compete with the independent ISPs on equal terms.

C. The Computer III Safeguards Must Apply to an Advanced Services Affiliate As Well As To the Regulated Company.

The Commission has proposed to permit the ILECs, including the RBOCs and GTE, to avoid the strict terms of their Section 251 unbundling and resale obligations by providing advanced services through a structurally separate affiliate.¹⁷ As we read the Notice, the affiliate can operate in either of two ways. The affiliate could operate on a retail footing, in competition with the CLECs, and would have to stand in line with the CLECs for access to the ILEC's facilities. Alternatively, it appears, the affiliate can operate on a wholesale basis, providing advanced services to the parent ILEC and the CLECs on equal terms.

The separation provisions are intended primarily to promote a competitive market in advanced services by ensuring that the ILEC cannot misuse its facilities monopoly to squeeze out competing transport providers. But even if these provisions adequately protect the CLECs, they will do nothing to safeguard "pure" ISPs — ISPs that are not also CLECs. An ISP still must go either to the ILEC (or ILEC affiliate) or a CLEC, if there is one in the market offering the needed advanced service.¹⁸ But the ILEC affiliate profits the same stockholders as its parent, and has

¹⁷ Notice at ¶¶ 85-117.

¹⁸ The Commission has proposed to offer pure ISPs the same "section 251-type unbundling" access rights as CLECs. *Computer III Further Remand Proceedings*, 13 FCC Rcd 6040, 6091 (1998). Even if the Commission adopts that proposal, however, many ISPs may opt as a business decision to take service through the ILEC or a CLEC. They should have the right

exactly the same incentive and the same means to discriminate as the parent does. Therefore, an RBOC or GTE affiliate that offers advanced services must be subject to Computer III safeguards, just as the parent is. Analyzing the need for those safeguards is a little different with and without a CLEC in the market, but the result is the same either way.

Case 1 — Only the local RBOC or GTE (or its affiliate) offers advanced services. This will be the usual case in rural and other lightly populated areas, where CLEC service is rare and the ILEC or its affiliate will remain the sole provider into the foreseeable future. If the ILEC opts to comply with Section 251, then it will be the monopoly provider. If it sets up a retail affiliate instead, then the affiliate will be the monopoly provider. Either way, the independent ISPs must take service from a monopoly that is also affiliated with the ILEC's ISP business. The ILEC and the ILEC affiliate thus present exactly the same potential for anticompetitive behavior. Even with the structural separation proposed in the Notice, the Computer III safeguards still remain fully necessary to protect the market for information services.

Anticompetitive behavior in this situation can take at least two forms. First, the affiliate can keep its rates for advanced services high to the independent ISPs, thereby raising the independent ISPs' cost of doing business, and hence push up the rates that independent ISPs must charge their subscribers. This helps the RBOC or GTE ISP sign up more customers at the expense of the independent ISPs. Or, to remove all uncertainty, the affiliate could simply tell its subscribers they cannot receive advanced services at all unless they take ISP service from the

to make that choice without thereby subjecting themselves to anticompetitive conduct.

parent's ISP. Applying ONA controls to the affiliate as well as the parent should prevent both types of abuse.

Case 2 — One or more CLECs offer advanced services in competition with GTE. The existence of advanced service CLECs in the market means only a marginal improvement for independent ISPs, especially if there are just a few CLECs. The separation mechanism proposed in the Notice should help to keep down the rate the CLEC pays, but that does not stop the CLEC from overcharging the ISP. To the contrary, a CLEC that itself offers ISP service, as many do, is better off maintaining high rates to competing ISPs for advanced services, while providing equivalent services to its own ISP services at cost. The CLEC's means and motive for anticompetitive behavior here are identical to an RBOC's or GTE's. The CLEC, of course, is not subject to Computer III. But the Commission's placing ONA controls on the RBOCs and GTE — and their affiliates — will set a price ceiling that restrains the CLEC as well.

Moreover, even a CLEC that does not offer its own ISP services has good reason to keep its prices high for advanced services. Its only disincentive is the possibility of being undersold by the ILEC or affiliate (or another CLEC). But consider the choices available to the ILEC or its affiliate, in the presence of a CLEC. The ILEC entity could lower advanced services rates to compete with the CLEC, and possibly sell more basic transport. More likely, though, it will act as in Case 1, above, and set advanced service rates much higher for the independent ISPs than for the ILEC's own ISP. The CLEC in turn knows that a rational ILEC would rather sell ISP service than basic transport, because it makes more money that way. Thus, the CLEC knows it too can safely charge independent ISPs artificially high rates for advanced services, without fear of real competition from the ILEC or its affiliate.

In the long run, to be sure, the emergence of multiple CLECs will tend to bring rates down to competitive levels. But that will take considerable time, and will probably never happen outside the largest markets. In the meantime — and for the long run in most of the country — the only way to ensure a properly competitive market for ISP services is to require the RBOC and GTE affiliates, along with the parent companies, to unbundle advanced services and provide them to competing ISPs on nondiscriminatory terms.¹⁹ As a corollary, the affiliates must be required at least to comply with the ONA tariff provisions applicable to the parent,²⁰ even if other tariff obligations are waived,²¹ to preserve the current level of information available to ISPs and to maintain "national uniformity in nomenclature, terms and conditions and rate structures for ONA services."²²

In the same vein, the RBOCs and GTE cannot be permitted to evade Computer III by offering ISP services through the same affiliate that provides advanced services. An RBOC or GTE might try to argue that only the regulated company is subject to ONA unbundling and nondiscrimination requirements, and that an affiliate providing both advanced services and ISP services need not offer advanced services on a nondiscriminatory basis — or offer it at all — to

¹⁹ The affiliate must also be subject to the same CPNI rules as the parent, if the Commission permits the sharing of CPNI between the two entities. *See* Notice at ¶ 113.

²⁰ Filing and Review of Open Network Architecture Plans, 5 FCC Rcd 3084, 3089 at ¶ 43 (1990) ("[W]e reiterate that any offering of BSEs, as defined in the *BOC ONA Order*, must be made available in the interstate tariffs when such BSEs are technically compatible with interstate access arrangements.") (citation footnote omitted).

²¹ *See* Notice at ¶ 100.

²² Filing and Review of Open Network Architecture Plans, 5 FCC Rcd at 3084, 3089 at ¶ 44 (1990).

independent ISPs. This argument would try to use the protections proposed in the Notice to undercut those guaranteed by Computer III. The ONA requirements for unbundling and nondiscriminatory provision must apply no matter how an RBOC or GTE distributes advanced services and ISP offerings among its corporate entities.

An RBOC or GTE may object to the imposition of both structural separation, which is somewhat reminiscent of Computer II, and Computer III safeguards, which historically replaced Computer II structural separation. But this objection has no merit. Computer II structural separation, and that proposed in the Notice, serve very different purposes. Computer II protected competing providers of *information* services, a market now protected under Computer III. The structural separation proposed here will protect a different market: competing providers of *basic telecommunications* service. The growth and maintenance of competition in both information and telecommunications services require the operation of both controls, at least for the present.

III. THE COMMISSION SHOULD INSTITUTE A PROCEDURE FOR MONITORING RBOC AND GTE COMPLIANCE WITH COMPUTER III SAFEGUARDS.

Independent ISPs with a lot of experience in requesting Computer III BSA and BSE services from the RBOCs and GTE report two frequent problems. First, RBOC and GTE field personnel are often unaware of their obligation to provide services that their Washington lawyers would doubtless agree are required. From the ISP standpoint, this appears to be largely an issue of inadequate training within the carrier organizations. Second, as noted in Part II.A above, the ISPs have seen many instances of apparent CPNI violations, particularly the use of calling data to

identify marketing targets for the RBOC's and GTE's own ISP services. These problems will no doubt continue to occur as additional technologies come under the ONA umbrella.

Typically such instances of carrier misconduct, taken individually, do not justify the cost and disruption of a full-scale Section 208 proceeding. In the aggregate, on the other hand, they represent a significant degree of cost and frustration to the independent ISPs. The ISP/C therefore asks the Commission to establish an alternative to Section 208 procedures that is less formal, and less expensive to all parties, for monitoring allegations of RBOC and GTE violations and the carriers' responses.

Specifically, ISP/C proposes that the Common Carrier Bureau add an area to its Internet web page in which an ISP can electronically lodge copies of protests sent to the local RBOC or GTE, in cases where the ISP believes the carrier has not fulfilled its obligations. Accompanying the document would be a list of key terms including name of the ISP, name of the carrier, date, location, service at issue, and a few words summarizing the allegation. The web page would automatically assign a case number. The RBOC or GTE would be encouraged to lodge a copy of its reply, if any, under the same case number, and the ISP could continue the exchange if necessary. The depository would be available for public inspection, with participants asked not to post material entitled to nondisclosure under the Freedom of Information Act.

Such a depository would require virtually no attention from the Commission, once established, and would cost almost nothing to maintain. But it would serve several useful purposes. First, knowing that the Commission has been informed of an allegation might help motivate the carrier to resolve it promptly, or to deny it in specific terms. Second, either the Commission or private parties can easily tabulate the incidence of allegations in particular

locations, or as to particular services, and can use any emerging patterns to identify issues needing attention. For example, if ISPs in a particular city complained of noisy lines at a rate far higher than ISPs in other cities, the ISPs could ask the Commission to seek an explanation from the carrier. Finally, if all else fails, the accumulated data may narrow the issues for a Section 208 complaint, and may also help to satisfy the requirements for pre-filing settlement discussions and specificity in pleadings.²³

CONCLUSION

Most independent ISPs compete with RBOC- or GTE-owned ISP operations in the retail ISP market, and are simultaneously dependent on RBOC- or GTE-provided monopoly facilities for delivery of services to customers. The combination makes the independent ISPs extremely vulnerable to unlawful discrimination — a paradigmatic instance of the situation that made Computer II/III necessary.

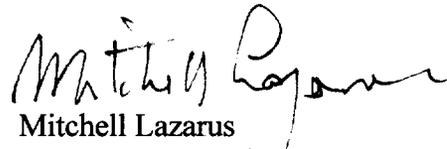
If the Commission adopts its proposal to permit the ILECs to avoid the strict terms of their Section 251 obligations by providing advanced services through a separate affiliate, the ONA requirements must apply to the affiliate as well as to the parent company. The separation provisions may adequately protect the competitive market for basic transport, but in themselves do not protect information service providers. The ILEC's advanced services affiliate has the same means and the same incentive as the parent to discriminate in favor of the parent's own ISP. If permitted, such discrimination would threaten the loss of the energy, commitment, and

²³ See Procedures to be Followed When Formal Complaints are Filed Against Common Carriers, 12 FCC Rcd 22497, 22516-17, 22534-38 (1997).

experience that the independent ISPs bring to their local communities. The ISP/C therefore asks the Commission to extend the Computer III ONA provisions to the advanced services affiliates of the RBOCs and GTE.

Finally, the ISP/C has proposed a simple and inexpensive system to aid in monitoring compliance.

Respectfully submitted,



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September 25, 1998

Counsel for
The Internet Service Providers' Consortium

APPENDIX A

Internet Service Providers' Consortium Membership Roster, September 1998

Company	City	State	Country	FirstName	LastName
.NU Domain LTD	Sherborn	MA	USA	Bill	Semich
2 Cow Herd Internet Services	Venice	CA	USA	Deb	Howard
3Com Corporation / US Robotics	Mount Prospect	IL	USA	Katherine	Sawyer
AboveNet Communications	San Jose	CA	USA	Justin	Newton
ABSnet Internet Services, Inc.	Baltimore	MD	USA	Marc	Siegel
AcroNet Professional Internet Services Inc.	Kenosha	WI	USA	Chris	Pappe
Affordable Connections Internet Company	Pt. Charlotte	FL	USA	Tom	Weems
AlaNet Internet Services, Inc.	Dothan	AL	USA	Jennifer	Watts
Allegany.com Internet Services, Inc.	Warren	PA	USA	Oran	Stewart
Alpine Internet	Carson City	NV	USA	Richard	Hodges
Applied Personal Computing, Inc.	Fairview Heights	IL	USA	Kevin J.	Sawyer
Arisian Software	Jupiter	FL	USA	Mark	Velasquez
Astroarch Consulting, Inc.	Austin	TX	USA	Edward	Haletky
AT&T Networked Commerce Services	Bridgewater	NJ	USA	Pending	
Atlantech Online, Inc.	Silver Spring	MD	USA	Edward J.	Fineran
Atlas Communications	Springfield	MO	USA	Steve	Powell
Bay Networks	Parsippany	NJ	USA	Pending	
Berean Solutions, Inc.	Tupelo	MS	USA	Scott	Thomas
Berkeley Software Design, Inc.	Colorado Springs	CO	USA	Rob	Kolstad
Byte Size Computers	Berryville	AR	USA	Robert	Fowler
CacheFlow Inc.	Palo Alto	CA	USA	Tom	McCafferty
Call Sciences	Edison	NJ	USA	Robert N	Danskin
Canville Communications	West Chester	OH	USA	Dan C.	Rinnert
CapaNet Inc.	Natrona Heights	PA	USA	Tina Marie	CeLane
CapaNet, Inc.	Natrona Heights	PA	USA	Lee	Capa
Caprica	Monterey Park	CA	USA	Kenneth	Taira
Carolina Online Inc.	Anderson	SC	USA	Gary	Merck
carpeNet Information Technologies GmbH	Hofheim		Germany	Ray	Davis
ChooseYourMail.com	Chicago	IL	USA	Ian	Oxman

Christy Industries, Inc.	Fraser	MI	USA	Shayne	Judkins
Clarity Connect Inc.	Ithaca	NY	USA	Joseph	Lalley
ClearGate Communications, Inc.	Glastonbury	CT	USA	Gene	Tye
Colomotion, Inc.	San Francisco	CA	USA	Peter	Berns
CompuBasix	Corpus Christi	TX	USA	David	Routh
Connections Plus Internet Services	Sumter	SC	USA	Dan	Haughton
ConnectLink Inc	Chesapeake	OH	USA	Phil	Henson
CrimsonWeb Information Systems	La Crescenta	CA	USA	Jason	Ingham
Critical Path Inc.	San Francisco	CA	USA	Shelley	Alger
CSRlink, Inc. (Uplink)	Montoursville	PA	USA	Micah	Brown
CubeXS Private Limited	Karachi	Sind	Pakistan	Aly G.	Ramzan
Cumberland Internet, Inc.	Toledo	IL	USA	David	Glynn
Cyberix, Inc.	Warminster	PA	USA	Kyoungbu m	Park
Cyberport LLC	Clarmont	NH	USA	R. David	Murray
Data Instruments, Inc	Marietta	GA	USA	Stephanie	Haas
Deepwell Internet Services	Fair Oaks	CA	USA	Ian	Briggs
DeMan Communications, LLC	Bellingham	WA	USA	Michael	DeMan
DFW Family Internet Services	Plano	TX	USA	William	Yiu
Didja Net Communications	Pontotoc	MS	USA	Ricky	Robbins
Digital Internet Access Link, Inc.	Springfield	MO	USA	Tim	Hite
Digital Starlight Communications, Inc.	Agoura Hills	CA	USA	Alan	DeRossett
Dimensional Communications, LLC	Denver	CO	USA	David	Denney
Direct Network Access	Berkeley	CA	USA	Dror	Matalon
Dream Communications, Inc.	Cohasset	MA	USA	Aaron	Sawchuk
dsl.net, inc.	West Haven	CT	USA	John	Jaser
Dundee Internet Services, Inc.	Dundee	MI	USA	Patricia	Rountree
EarthReach Communications, LLC	Appleton	WI	USA	Jeff	Vogt
EAZNet	Safford	AZ	USA	Eddie	Fry
Electro Link Network, Inc.	Elburn	IL	USA	Dan	Graupman
Elite.net	Merced	CA	USA	Gilbert James	Arguelles
EnterAct, LLC	Chicago	IL	USA	Tracy	Snell
Enterprise Information Services, Inc.	Washington	DC	USA	Hasan	Muhamma d
Ericsson Inc.	Richardson	TX	USA	Mike	Litherland
Erols Internet	Springfield	VA	USA	Alec	Peterson
E-world Internet	Fullerton	CA	USA	Charles	Chang
EXP Internet Services	Bridge City	TX	USA	J. Glenn	Hughes
Fastransit Communications, Inc.	West Jefferson	NC	USA	Scott	Knapp
Flordia Digital Turnpike	Tallahassee	FL	USA	Harald W.	Kegelmann

Fort Nocs Inc.	Anchorage	AK	USA	Lance	Ahern
Frazier Mountain Internet Service	Pine Mountain Club	CA	USA	Scott	Rosen
Frontier GlobalCenter	New York	NY	USA	Jason	Zigmont
G.R.I.N. Net	San Francisco	CA	USA	Andrew	Robinson
Global Computer Services, Inc.	Concord	NC	USA	Douglas S.	Childress
Globalnet	Philo	OH	USA	Jeff	Ault
Gotham Amalgamated	New York	NY	USA	Richard	Safran
InterNetworking Corp.					
Ground SystemHouse, Inc.	Olney	MD	USA	Scott	Whittle
Gulf South Internet Services Inc.	Metairie	LA	USA	Richard	Palmer
GulfAccess, Inc.	Naples	FL	USA	Brad	Sprolws
Gweep Internet	Waltham	MA	USA	MegaZone	
Harbor Communications	Painesville	OH	USA	Scott	Leonello
Highfiber Network	Albuquerque	NM	USA	Holly	Steinberg
Hi-Tak International, Inc.	New York	NY	USA	Mintak	Ng
Homebug	Wothington	OH	USA	Alan	Bond
Homenet Communications	Warner	GA	USA	Steve	Berman
	Robins				
Hubris Communications	Garden City	KS	USA	Chris	Owen
Hypernet Communications	Cleburne	TX	USA	Douglas	Bowyer
iHighway.net, Inc.	San Jose	CA	USA	John M.	Brown
I-Land Internet Services	Sedalia	MO	USA	Chris	Young
Infolink Servicios, S.C.	El Paso	TX	USA	Jose A.	Gonzalez
InfoMine Of The Rockies, Inc.	Butte	MT	USA	Phillip J.	Curtiss
InReach Internet, LLC	Stockton	CA	USA	John	Keagy
Insync Internet Services, Inc.	Houston	TX	USA	David	Power
Interactive Telecommunications Program	New York	NY	USA	Barbara	Steinberg
InterComm Technologies, Inc.	Otterbein	IN	USA	Bill	Warner
Interconnected Associates	Seattle	WA	USA	Jeffrey	Sterling
Interface Computer Center L.L.C.	Fayetteville	AR	USA	Jeremy	Webb
InterKan.Net, Inc.	Manhattan	KS	USA	Justin	Geering
Intermedia Internet Services	Kingsport	TN	USA	Tony	Falin
International Web Broadcasting Corp.	Portland	OR	USA	Joanne	Collins
Internet 1 st	St Louis	MO	USA	Tim	Flavin
Internet of the Sandhills	Southern Pines	NC	USA	Beth	Morgan
Internet Texoma, Inc	Denison	TX	USA	Larry	Vaden
Internet Wizards	Kent	WA	USA	Robert T.	Smithing
internet@vantage, inc.	Honolulu	HI	USA	Sherwood	Pekelo
Iperdome, Inc.	Atlanta	GA	USA	Jay	Fenello

ISP Power Corporation	Honolulu	HI	USA	Marc	Rapoza
ISPNews, Inc.	Plymouth	MI	USA	Michael	Betts
JAJAweb, LLC	San Antonio	TX	USA	Robert G.	Allen
JASKE Internet Solutions	Chicago	IL	USA	Alexi	Touloumis
John Leslie Consulting	Milford	NH	USA	John	Leslie
JPS Online Systems, Inc.	Westerly	RI	USA	John	Sulima
Klondyke's Online Services	Richmond	MI	USA	Maria	Wells
Las Vegas Internet	Las Vegas	NV	USA	Mike	Butler
LGA International	Singapore		Singapor	Daniel	Ang
			e		
LinkAmerica Communications	New York	NY	USA	Rachel	Luxemburg
Linkline Internet Access	Mira Loma	CA	USA	Philip	Ardron
Lockridge, Grindal, Nauen & Holstein	Minneapolis	MN	USA	Christopher	Sandberg
Lucent Technologies RABU	Pleasanton	CA	USA	John	Mann
Lynks Network Services, Inc.	Fayetteville	AR	USA	Calvin	Anderson
Madison County Telephone	Huntsville	AR	USA	Jeremy	Webb
MagicNet, Inc.	Orlando	FL	USA	Robert D.	Thrush
MAP Internet Inc.	Springfield	MA	USA	Grosvenor	Heacock
Maui Gateway	Kihei	HI	USA	George	Fontaine
Maui Net, Inc.	Kihei	HI	USA	Roger	Stout
Maximum R&D	Los Angeles	CA	USA	Mark	Geisert
Meganet Communications, TCIX, Inc.	Fall River	MA	USA	Brian	Wallingford
Memra Software Inc.	Armstrong	BC	CANADA	Michael	Dillon
Mercury Network	Midland	MI	USA	David	Sovereign
MGC Communications, Inc.	Las Vegas	NV	USA	Scott A.	Buften
Michweb, Inc.	Cadillac	MI	USA	Matt	Simerson
Midcoast Internet Solutions	Newcastle	ME	USA	Jason J.	Simonds
Midwest Web Inc.	Painesville	OH	USA	Mark	Canfield
Millennia Communications, LLC	San Diego	CA	USA	Rick	Stevens
Mint City Internet	St. Johns	MI	USA	Barry	Buchholz, Jr.
Moss Communication	McMinnville	OR	USA	Steven P	Schalock
MV Communications, Inc.	Manchester	NH	USA	Mark	Mallett
MVA.NET	Haverhill	MA	USA	Dave	Spaulding
N2 The Net	Cookeville	TN	USA	Kevin W.	Paul
N2H2 Corporation	Seattle	WA	USA	Kevin	Fink
NameSecure	Moraga	CA	USA	Patrick	Greenwell
Net Access Corporation	Newton	NJ	USA	Alex	Rubenstein
Net Carrier Inc.	Telford	PA	USA	Chris	Peltier
Net Crusader, Inc.	Manassas	VA	USA	J. Carlos	Castro
	Park				

Net56+	Palatine	IL	USA	Robert	Strickler
Netaxs	Philadelphia	PA	USA	Avi	Freedman
NetCreations, Inc.	Brooklyn	NY	USA	Rosalind	Resnick
Netmeg Internet	Monroe	CT	USA	Matt	Magri
NetSpace, S.A. de C.V.	Toluca		Mexico	Oscar	Mondragon
Netstarz Solutions	Toomsboro	GA	USA	Harold G.	Powers
Netstep Access Services	Kingston	NY	USA	Robb	Kinnin
Netsurfer, Inc	Atlanta	GA	USA	J. Scott	Williford
Netuser Communications	Cupertino	CA	USA	Greg	Merrell
Network Trend Technology	Shinjuku, Tokyo		Japan	Tateishi	Saigoh
Newport Internet	Newport	OR	USA	Don	Lashier
NFO Research	Greenwich	CT	USA	Mickey	Bennett
Noguska	Fostoria	OH	USA	George	Gibat
NorthPoint Communications, Inc	San Francisco	CA	USA	Matthew J.	Going
Nothin But Net, LLC	Mount Laurel	NJ	USA	Len	Pikulski
NYCPORT Networks	New York	NY	USA	John	Kenney
On-Line Systems	Palatine	IL	USA	Jay	Griffiths
Pact Communication Group, Inc.	Ft. Lauderdale	FL	USA	Camilo	Pereira
Palmer Divide Communications	Monument	CO	USA	Joseph M.	Beggs
Pampa Cyber Net	Pampa	TX	USA	Douglas	Locke
Panda Communications LLC	Santa Cruz	CA	USA	Harry	Landers
PAXnet Communications Inc.	Greenville	SC	USA	James J	Mundy
PCs Made Easy, LLC	Tagard	OR	USA	Ken	Rea
PEGLabs	San Francisco	CA	USA	Tom	English
Penncom Internet Company	Warren	PA	USA	Laura	Megill
Pennsylvania Online LTD.	Harrisburg	PA	USA	George F.	Peace
Pinellas Internet Services	Clearwater	FL	USA	Roxanne	Loveday
Plantaganet Internet Services	Doylestown	PA	USA	James	Smallacom be
Poulton Associates	Salt Lake City	UT	USA	Craig K	Poulton
PressEnter	River Falls	WI	USA	David E.	Bushard
Priori Networks		CA	USA	Timothy	Brown
Priori Networks	Redwood City	CA	USA	Robert	Shearing
Private I, LLC	Louisville	CO	USA	Kevin	Wenzel
Progressive Telecom	Doylestown	PA	USA	Ken	Klosinski
QDO	Lahore		Pakistan	Suhael	Ahmed
Rocky Mountain Internet Junction	Golden	BC	Canada	Terry	Hickey
Rural Communications, Inc.	Cedar Hill	MO	USA	Christopher	Jones
Scescape, Inc.	Aiken	SC	USA	Joe	Bonin
SBBSNET	Saginaw	MI	USA	Jonathan D.	Hozeska
Sentient Networks, Inc.	Milpitas	CA	USA	Sunil	Dhar

ShreveNet, Inc.	Shreveport	LA	USA	Brian	Feeny
SkyCache, Inc.	Laurel	MD	USA	Doug	Humphrey
SLIP.NET	San Francisco	CA	USA	Ted	Glenwright
SoftAplic S/C Ltda	Belo Horizonte	MG	Brazil	Edesio	Costa e Silva
Software Design Associates	Poway	CA	USA	Jeff	Lawhorn
SONET Communications	Lawton	OK	USA	John	Gisclon
Sonoma Systems	Marina del Rey	CA	USA	John	Mazzaferro
Southern Star	Metairie	LA	USA	John R.	Souvestre
SouthNet Inc.	Hamilton	AL	USA	Tony	Williams
Southwest Cyberport	Albuquerque	NM	USA	Mark	Costlow
SoVerNet	Bellows Falls	VT	USA	Erik	Leo
SparkNET Corporation	Green Bay	WI	USA	Christopher	Knight
SpeedLink	Pontiac	MI	USA	Melih	Oztalay
Stevens Enterprise	Beaumont	TX	USA	Kenneth M.	Stevens
Surfari Internet Provider Services	Grover Beach	CA	USA	Kent	Crow
Sutter Yuba Internet Exchange SYIX.COM	Yuba City	CA	USA	David	Overton
TDI Internet, Inc.	Monroe	MI	USA	Tom	Bilan
Telalink Corporation	Nashville	TN	USA	Bob	Collie
Telechoice	North Brunswick	NJ	USA	Neville	O'Reilly
Teleport Internet Services	Portland	OR	USA	James S.	Deibele
Televolve, Inc. (San Francisco Online)	San Francisco	CA	USA	William	Sommers
TeQ Works!	Edmonton	Alb	Canada	Kevin	Crocker
Texas Networking, Inc.	Austin	TX	USA	Ron Barron	Yokubaitis
The Binary Bin	West Deptford	NJ	USA	Brian	Waters
The Foxberry Network Inc.	Monroe	MI	USA	Thomas	Fox
The UserFriendly Network	West Reading	PA	USA	Michael	Weiner
Thevoid.net	Studio City	CA	USA	Dean	Schinnerer
Tigerden Internet Services	Dayton	OH	USA	George	Nemeyer
TriloBYTE Services, Inc.	Tooele	UT	USA	Michelle	Lawrence
Union Net	Baltimore	MD	USA	M.C.	Motsko
Universal Internet, LLC	Carmel	CA	USA	Brian	Steckler
US Xchange, LLC	Grand Rapids	MI	USA	Scott	Brew
UsefulWare Inc.	Marietta	GA	USA	John	Foltz
Valhall Access	Welland	ON	Canada	Kitty Sue	Morgan
VCNet	Camarillo	CA	USA	Bob	Rust
VECNet	Tucker	GA	USA	Charles T.	Smith, Jr.
Verio RustNet, Inc.	Livonia	MI	USA	Lynne	Mullins
Virginia Internet Express	Dayton	VA	USA	Fred R.	McDavid,

VisiNet	Newport News	VA	USA	Edward	Jr. Fang
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Web Technologies	Amherst	NY	USA	Shawn P.	Lemay
WebbSite, Inc	Fayetteville	AR	USA	Jason	Webb
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Wizvax Communications	Troy	NY	USA	Richard	Shetron
WTS OnLine	Dallas	TX	USA	Gerry	Dalton
Xcom	Cambridge	MA	USA	John	Johnson
Yosemite Network	Mariposa	CA	USA	Mike	Bird
Zocalo	Berkeley	CA	USA	Bill	Woodcock

Certificate of Service

I, Mitchell Lazarus, an attorney with the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 25th day of September, 1998, I caused copies of the foregoing "Comments Of The Internet Service Providers' Consortium" to be delivered by hand to the following:

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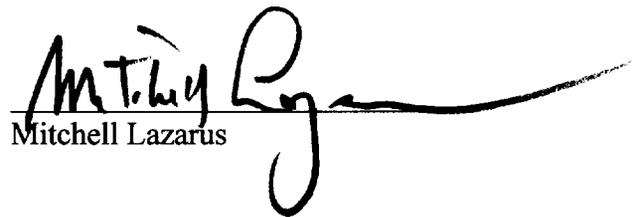
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