only a single monopoly provider of the service.\textsuperscript{26} If this possibility were likely enough and if government thought that barriers to future entry were high enough to prevent entry of potential new innovators, then a case might exist for mandating some form of compatibility.

The Commission should keep these concerns in mind when it considers the question of whether or not to remove the Condition. \textbf{All} four costs of regulation that I identify above are potentially large and serious in this case. First, mandated interoperability will require some form of standard setting for interfaces -- whether by a private group or the Commission -- and this will limit firms’ design choices for the nature of their own systems.

Second, a full-blown mandated interoperability regime is likely to be complex and expensive to run. Disputes will arise as to whether various practices prevent or degrade interoperability and some neutral body will be forced to adjudicate these. If a firm responds to mandated interconnection by agreeing to interconnect but then charges its competitors a high price when messages are transferred, those administering the standard will be forced to begin proceedings to determine a “fair and reasonable” interconnection price. The tangled and complicated history of the Commission’s various interconnection proceedings make it abundantly clear that this is not a simple or easy task.

Third, there will be a potential for firms to “game” the standard setting process to disadvantage their competitors and damage competition. For example, all sorts of technical changes to one system might potentially interfere with or at least degrade interoperability. The administrator of the standard will then be forced to endlessly adjudicate complaints where one competitor attempts to interfere with the introduction of innovations by another competitor by claiming that they interfere with interoperability.

\textsuperscript{26} Some people have pointed to the market for computer operating systems as an example. \textit{See generally U.S. v. Microsoft Corp.}, 253 F.3d 34 (D.C. Cir. 2001).
Fourth, and perhaps most important, mandated interoperability will interfere with firms’ incentives to innovate and bring to market new types of products and services because mandated interoperability will require innovators to share more of the gains from innovation with competing firms. This is because, to the extent new innovations interfere with interoperability, innovating firms might find themselves forced to share their innovations with other firms.

Therefore, in a rapidly evolving market such as the IM market -- where innovation of new products and new processes is of paramount importance -- the Commission would best protect and further the public interest by removing the Condition, since it creates costs and is not needed to insure the survival of multiple strong competitors.

IV. CONCLUSION

AOL’s market share has been declining ever since the Commission entered the Order and, indeed, ever since its competitors entered the market. This and other evidence suggests that competition in this market is now strong and stable and, in particular, that there is no longer any plausible danger of the market “tipping” to AOL because of network effects. Where regulations such as the Condition no longer serve an evident pro-competitive purpose, they likely impose costs that are passed on to consumers in the form of reduced choice or decreased innovation in the market. For all of these reasons, I conclude that the Condition should be removed.
I declare that the foregoing is true and correct:

William P. Rogerson

Dated:

March 31, 2003
EXHIBIT 1

Curriculum Vitae of William P. Rogersou

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Education
B.A., Economics, University of Alberta, 1976
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Current Employment
Professor of Economics, Northwestern University
Honors, Awards and Research Grants
Graduated from the University of Alberta with distinction, 1976
Earl C. Anthony Fellowship, 1976-77
Canada Council Doctoral Fellowship, 1979-80
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NSF Grant SES-8320451, "Moral Hazard, Reputation, and Product Quality,"
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NSF Grant SES-8504304, "Moral Hazard, Reputation, and Product Quality,"
April 1985 - September 1987
NSF Grant IRI-8705477, "Contracting Under Asymmetric Information,"
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Named to Household International Professorship in Economics, September 1987 - August 1989
Olin Fellow at The Center for the Study of the Economy and the State, University of Chicago, October 1, 1989 - June 30, 1990.
Research and Teaching Interests
Industrial Organization, Regulation, Telecommunications, Cost Accounting, Defense Procurement, and Health Care.

Employment History
Research Assistant to Canadian Member of Parliament, Arnold Malone, June 1975 - September 1975
Teaching Assistant at University of Alberta, September 1975 - June 1976
Research Assistant, Environmental Quality Laboratory, Caltech, June 1977
Economist, Long Range Planning and Structural Analysis Division, Department of Finance, Government of Canada, June 1978 - September 1978
Teaching Assistant to Professor Charles R. Plott, Division of Humanities and Social Sciences, Caltech, September 1979 - June 1980
Assistant Professor of Economics, Stanford University, September 1980 - August 1984
Associate Professor of Economics, Northwestern University, September 1984 - May 1990
Professor of Economics, Northwestern University, May 1990 - Present
Chair, Economics Department, Northwestern University, September 1996 - August 1998.
Chief Economist, Federal Communications Commission, June 1, 1998-May 31, 1999 (on leave from Northwestern for this year.)
Director, Northwestern Program in Mathematical Methods in the Social Sciences, September 2000 - present.

Professional Activities
Member of the editorial board of Review of Accounting Studies, September 1993 to present.
Member of the Illinois Economic Policy Council, September 1999 to September 2000

Refereed Publications


"The Dissipation of Profits by Brand Name Capital and Entry When Price Guarantees Quality," *Journal of Political Economy*, 95, August 1987, 797-809.


Other Publications


On the Use of Transfer Prices in DoD: The Case of Repair and Maintenance of Depot Level Reparables by the Air Force, Logistics Management Institute Paper PA303RD2, January 1995, Logistics Management Institute, McLean, VA.

