



September 16, 2003

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

*Re: CHOICE Coalition Request for Stay in CC Docket No. 01-338*

Dear Chairman Powell:

On behalf of the Competitive Telecommunications Association (“CompTel”), I am writing to request that the Commission grant the request of the Coalition for High-Speed Online Internet Competition and Enterprise (“CHOICE Coalition”) to stay limited portions of the Commission’s August 21<sup>st</sup> *Triennial Review Order*. Specifically, on August 27<sup>th</sup>, the CHOICE Coalition asked the Commission to stay the effective date of the mandatory 25% increase in the price of line-shared loops that is set to take effect on the effective date of the order (October 3, 2003), so that these carriers may obtain the benefit of their right to judicial review of the Commission’s order before they suffer irreparable harm. The CHOICE Coalition also asks the Commission to lift its current restrictions preventing competitive DSL providers from adding new line-shared customers after the first year of the order. The CHOICE Coalition has asked the Commission to act favorably on its request by September 19<sup>th</sup>, and CompTel urges the Commission to grant the reasonable relief sought by the requested date.

With regard to both requests, the CHOICE Coalition seeks only the most limited relief necessary to protect their rights pending judicial review, and additional ancillary relief that is necessary in the first instance to protect the integrity of the Commission’s order. The CHOICE Coalition identifies many operational impairments to true widespread implementation of the line splitting alternative—the availability of which served as a predicate justification for the Commission’s subsequent line sharing phase out. In seeking its stay, the CHOICE Coalition has narrowly tailored its stay requests for very finite and limited amounts of time: the time that would be necessary to afford

judicial review of portions of the Commission's order, or, alternatively, the time in which existing operational impediments to line splitting can be resolved.

The limited time periods for which the CHOICE Coalition seeks a stay of the Commission's order are for very limited, finite periods. Moreover, to the degree that acceptable resolution of line splitting problems and procedures could mitigate the potential for harm to the CHOICE members from implementation of the Line Sharing portions of the order, the ILECs, themselves, would have significant control over when the line splitting alternative works as intended in the order.

CompTel believes the CHOICE Coalition has articulated a compelling and reasonable basis on which the Commission could grant the reasonable stay sought. CompTel does not believe that any public interest identified in this order will suffer as a result of the Commission granting this limited stay request. Therefore, CompTel joins the CHOICE Coalition in asking the Commission to expedite its grant of this request by granting this limited stay—which is truly necessary to protect high-speed Internet competition—in the absence of a functional line splitting alternative—on or before this Friday, September 19, 2003.

Thank you in advance for your assistance on this matter of critical concern to CompTel and consumers of competitive DSL service.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Russell Frisby, Jr.", written in a cursive style.

H. Russell Frisby, Jr.

cc: Commissioner Kathleen Q. Abernathy  
Commissioner Kevin J. Martin  
Commissioner Michael J. Copps  
Commissioner Jonathan Adelstein  
Wireline Competition Bureau Chief William Maher  
Legal Advisor Christopher Libertelli  
Legal Advisor Matthew Brill  
Legal Advisor Jessica Rosenworcel  
Legal Advisor Daniel Gonzalez  
Legal Advisor Lisa Zaina