

FEDERAL COMMUNICATIONS COMMISSION
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January 11, 2002

Federal Communications Commission
Office of the Secretary

GN Docket No 04-54



OFFICE OF
THE CHAIRMAN

The Honorable Joseph Lieberman
Chairman
Committee on Governmental Affairs
United States Senate
605 Hart Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

On October 16, 2001, the U.S. General Accounting Office submitted a report entitled Telecommunications: Characteristics and Competitiveness of the Internet Backbone Market (GAO-02-16) to Senators Kohl and DeWine. The Report made the following recommendation to the Commission:

FCC should develop a strategy for periodically evaluating whether existing informal and experimental methods of data collection are providing the information needed to monitor the essential characteristics and trends of the Internet backbone market and the potential effects of the convergence of communications services. If a more formal data collection program is deemed appropriate, FCC should exercise its authority to establish such a program (p. 29).

The GAO is recommending that the FCC adopt a process for evaluating its data collection needs; it is not, however, recommending that the FCC at this time engage in new data gathering.

In addition to the recommendation, we note that the Report observes a need for data related to network reliability and local broadband deployment. We also note that, while the Report identifies a possible need for data, the Report did not identify a specific problem that requires regulatory action. The Report stated, "[n]o evidence came to light in the course of this study to suggest that the long-standing hands-off regulatory approach for the Internet has not worked or should be modified" (p. 29)

This letter is to inform you of the Commission's response to the GAO recommendation.

The Internet falls within a larger regulatory classification known as enhanced services or information services. These are different types of data processing or computer network services that are provided via the telecommunications network. The Commission has long been concerned with enhanced services, starting with its Computer Inquiries initiated in 1966. The conclusion in that proceeding was that enhanced services should be unregulated because the market was highly competitive, innovative, had low barriers to entry, and had a low risk of

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monopolization. The Commission has regularly revisited these issues in Computer II, Computer III, and other related proceedings, affirming its original findings.

The Commission has directly addressed the Internet backbone market on multiple occasions including the first Section 706 Report to Congress, the MCI / WorldCom merger, the Bell Atlantic / GTE merger, and the MCI / Sprint merger. The FCC has considered the Internet backbone market in developing its ICAIS policy for international meetings ("International Charging Arrangements for Internet Services" involving pressure to impose telecommunications accounting schemes on Internet peering). The Network Reliability and Interoperability Council ("NRIC"), an FCC federal advisory committee, has also touched on the issue, recommending that backbones publish their peering policies, and developing a white paper on interconnection between Internet backbones. The FCC Office of Plans and Policy has released an OPP Working Paper on the subject entitled *The Digital Handshake: Connecting Internet Backbones* (September 2000). Finally, the FCC also has recently hired staff with expertise in this area.

Section 706 of the Telecommunications Act creates an ongoing obligation for the Commission to examine "the availability of advanced telecommunications capability to all Americans." The Commission is currently completing its third cycle of preparing a Report to Congress pursuant to Section 706. The Commission could evaluate, as a part of the Section 706 process, whether existing methods of data collection are providing the information needed to monitor the essential characteristics and trends of the Internet backbone market and the potential effects of the convergence of communications services. Consistent with the GAO recommendation, if the Commission deems that it is necessary, the Commission can propose appropriate action as a part of the Section 706 process.

The GAO Report also notes a need for additional information in the area of Internet network reliability. We, therefore, wish to share with you the latest developments with the NRIC. The NRIC was established in 1991 with the mission "to provide recommendations to the Commission that will help prevent network outages or limit their impact." Since that time, NRIC has assisted the Commission with the reliability of the public telephone network, an analysis of the Internet's impact on the telecommunications network, and preparing the telecommunications network for Y2K. As the GAO Report notes, NRIC V actively explored reporting of Internet backbone outages. NRIC VI, which will soon convene, will have increased emphasis on Internet reliability and Homeland Security. A recent press release concerning NRIC VI is enclosed.

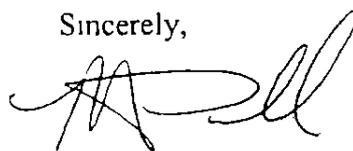
There are multiple government efforts addressing Internet reliability and security. We wish to ensure that the FCC's work complements the work of other agencies. Other federal work includes the Office of Homeland Security, the Critical Infrastructure Protection Board, The US National Infrastructure Protection Center, the CERT Coordination Center, The Critical Infrastructure Assurance Office, the National Coordination Center for Telecommunications, the National Communications System, the National Security Telecommunications Advisory Committee, and the Federal Computer Incident Response Center. At the state level there is the

National Association of State Chief Information Officers ("NASCIO"). There are also multiple private sector efforts that include the Forum of Incident Response and Security Teams, IT Information Sharing and Analysis Center ("ISAC"), the forming ISP ISAC, IOPS, and the North American Network Operators Group. Government work on network reliability should take advantage of and build upon the excellent work being achieved by the private sector.

The Report also mentions the need for data concerning local broadband deployment. Broadband deployment is, of course, the subject of the Commission's mandate under Section 706 of the Telecommunications Act. As previously noted, the Commission is currently concluding its third Section 706 proceeding and the report to Congress is imminent. As part of this process, the Commission has implemented a regular and ongoing data collection and releases data every six months.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Powell", written in a cursive style.

Michael K. Powell
Chairman

Enclosure

cc Director, Office of Management and Budget
Director, Physical Infrastructure Issues, U S. General Accounting Office



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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC 515 F.2d 385 (D.C. Circ. 1974)

FOR IMMEDIATE RELEASE
January 4, 2002

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QWEST COMMUNICATIONS CHAIRMAN AND CEO JOSEPH NACCHIO ASSUMES CHAIR OF NETWORK RELIABILITY AND INTEROPERABILITY COUNCIL

Washington - FCC Chairman Michael K. Powell today announced that Joseph P. Nacchio, Chairman and Chief Executive Officer of Qwest Communications, will chair the next term of the Network Reliability and Interoperability Council (NRIC VI). Chairman Powell thanked Level 3 Communications President and Chief Executive Officer, James Q. Crowe, for leading the Council during its previous term (NRIC V).

The Council's members are senior representatives of providers and users of telecommunications services and products, including telecommunications carriers, the satellite, cable television, wireless and computer industries, trade associations, labor and consumer representatives, manufacturers, research organizations and government related organizations.

The role of the Council is to develop recommendations for the Commission and the telecommunications industry to assure optimal reliability, security, interoperability and interconnectivity of, and accessibility to, public telecommunications networks and the Internet. NRIC VI will work on traditional reliability issues with a strong emphasis on national security.

Mr. Nacchio is also Vice-Chairman of the National Security Telecommunications Advisory Committee, a Federal Advisory Committee Act body that advises President Bush on national security telecommunications matters.

Mr. Nacchio said: "I am honored that Chairman Powell has asked me to serve as the Chairman of the Network Reliability and Interoperability Council at this crucial time and I look forward to working with him and the members of the Council."