Press Release

TIA Strongly Applauds FCC Adoption of Order Deregulating New Broadband Facilities

Contact:	**Sharon Grace**	**For Immediate Release**
	(703) 907-7721	February 20, 2003
	sgrace@tiaonline.org	

Arlington, Va., -- Telecommunications Industry Association (TIA) President Matthew J. Flanigan made the following statement today in response to the Federal Communications Commission's (FCC) adoption of a Report and Order in the Triennial Review proceeding concerning incumbent local exchange carriers' network unbundling obligations:

"TIA praises the leadership exhibited by the commission on broadband on this critical day for the agency and the telecommunications industry. We believe that the FCC, in deregulating new, last-mile broadband facilities, today has made a significant contribution to spurring a recovery in the telecommunications industry. Most importantly, U.S. consumers will be the ultimate beneficiaries of the resulting high-quality, widespread and affordable broadband services.

"We believe this decision on broadband will give ILECs and other facilities-based carriers the opportunity to invest in new broadband technologies and enable them to be competitive in the broadband market. TIA is very pleased and believes it is significant that the FCC adopted in whole the High Tech Broadband Coalition's proposal on new, last-mile broadband facilities investment.

"While we look forward to reviewing the final order, today's action by the commission removes serious economic disincentives to investment in telecommunications networks. We think it will mean that the incumbent telephone companies will increase their commitment to invest capital to more effectively compete with cable modem providers. In some situations, this likely will mean extending the reach of their digital subscriber line (DSL) networks to reach more potential customers. It also affords them an opportunity and incentive to make the great technology leap many have been waiting for: fiber-to-the-home (FTTH). We believe the substantially reduced threat of regulatory interference will spur investment in new network facilities.

"Again I applaud and thank the commissioners, and their staff, for taking the bold and decisive steps needed to foster increased broadband investment, innovation and facilities-based competition. For more than four years, TIA has been urging the commission to move to a new framework that rewards investment in new and innovative technologies to make broadband services available more widely and to make the supporting networks more robust."

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TIA is the leading trade association serving the communications and information technology industry, with proven strengths in market development, trade shows, domestic and international

advocacy, standards development and enabling e-business. Through its worldwide activities, the association facilitates business development opportunities and a competitive market environment. The association provides a market-focused forum for its 1,000 member companies that manufacture or supply the products and services used in global communications. TIA represents the communications sector of the Electronic Industries Alliance (EIA). Visit us at http://www.tiaonline.org.

P.A. Release 03-12/02.20.03

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Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

News media Information 202 / 418-0500
TTY 202 / 418-2555
Fax-On-Demand 202 / 418-2830
Internet: http://www.fcc.gov
ftp.fcc.gov

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:
February 20, 2003

NEWS MEDIA CONTACT:
Michael Balmoris 202-418-0253
Email: mbalmori@fcc.gov

FCC ADOPTS NEW RULES FOR NETWORK UNBUNDLING OBLIGATIONS OF INCUMBENT LOCAL PHONE CARRIERS

Greater Incentives for Broadband Build-Out and Greater Granularity in Determining Unbundled Network Elements Are Key Commission Actions

Washington, D.C. – The Federal Communications Commission (Commission) today adopted rules concerning incumbent local exchange carriers' (incumbent LECs) obligations to make elements of their networks available on an unbundled basis to new entrants. The new framework provides incentives for carriers to invest in broadband network facilities, brings the benefits of competitive alternatives to all consumers, and provides for a significant state role in implementing these rules.

Today's action resolves various local phone competition and broadband competition issues and addresses a May 2002 decision by the U.S. Court of Appeals for the District of Columbia which overturned the Commission's previous Unbundled Network Elements (UNE) rules. Following is a brief summary of the key issues resolved in today's decision (a more detailed summary of today's action is attached):

1. **Impairment Standard** – A requesting carrier is impaired when lack of access to an incumbent LEC network element poses a barrier or barriers to entry, including operational and economic barriers, which are likely to make entry into a market uneconomic. Such barriers include scale economies, sunk costs, first-mover advantages, and barriers within the control of the incumbent LEC. The Commission's unbundling analysis specifically considers market-specific variations, including considerations of customer class, geography, and service.

2. **Broadband Issues** – The Commission provides substantial unbundling relief for loops utilizing fiber facilities: 1) the Commission requires no unbundling of fiber-to-the-home loops; 2) the Commission elects not to unbundle bandwidth for the provision of broadband services for loops where incumbent LECs deploy fiber further into the neighborhood but short of the customer's home (hybrid loops), although requesting carriers that provide broadband services today over high capacity facilities will continue to get that same access even after this relief is granted, and 3) the Commission will no longer require that line-sharing be available as an unbundled element. The Commission also provides clarification on its UNE pricing rules that will send appropriate economic signals to carriers.

3. **Unbundled Network Element Platform (UNE-P) Issue** – The Commission finds that switching - a key UNE-P element - for business customers served by high-capacity loops such as DS-1 will no longer be unbundled based on a presumptive finding of no impairment. Under this framework, states will have 90 days to rebut the national finding. For mass market customers, the Commission sets out specific criteria that states shall apply to determine, on a granular basis, whether economic and operational impairment exists in a particular market. State Commissions must complete such proceedings within 9 months. Upon a state finding of impairment, the Commission sets forth a 3 year period for carriers to transition off of UNE-P.

4. **Role of States** – The states have a substantial role in applying the Commission's impairment standard according to specific guidelines tailored to individual elements.

5. **Dedicated transport** – The Commission finds that requesting carriers are not impaired without Optical Carrier (or OCn) level transport circuits. However, the Commission finds that requesting carriers are impaired without access to dark fiber, DS3, and DS1 capacity transport, each independently subject to a route-specific review by states to identify available wholesale facilities. Dark fiber and DS3 transport also each are subject to a route-specific review by the states to identify where competing carriers are able to provide their own facilities.

With today's action, the Commission also opened a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on whether the Commission should modify the so-called pick-and-choose rule that permits requesting carriers to opt into individual portions of interconnection agreements without accepting all the terms and conditions of such agreements.

-FCC-

Docket No.: CC 01-338

Wireline Competition Bureau Staff Contact: Tom Navin at 202-418-1580.

News about the Federal Communications Commission can also be found
on the Commission's web site www.fcc.gov.