

**Resolution on the Need for Federal/State
Collaboration in the Development and Implementation
of Policies on Enhanced Services**

WHEREAS, *The Federal Communications Commission (FCC) in its Third Computer Inquiry (1) removed the requirement that Bell Operating Companies (BOCs) offer enhanced services through subsidiaries separate from their telephone company operations; (2) preempted State regulation of enhanced services; and (3) with regard to Bell Operating Company provision of enhanced services, preempted State authority to use competitive safeguards which the FCC would consider more onerous than the FCC's own Part 64 cost allocation rules and Open Network Architecture (ONA) requirements; and*

WHEREAS, *Many enhanced services and ONA services are primarily intrastate in nature; and*

WHEREAS, *In California vs. FCC, the United States Court of Appeals for the Ninth Circuit vacated the FCC's Third Computer Inquiry orders; and*

WHEREAS, *In doing so, the Ninth Circuit Court affirmed State authority to establish and implement State policies on (1) the regulation of intrastate enhanced services; and (2) safeguards that would be used to protect against anticompetitive conduct, including the structure of the BOC provision of the enhanced service; and*

WHEREAS, *States now have the authority to permit the continuation of existing BOC enhanced services and, absent State action, BOCs may, in some instances, lack the authority to continue to offer such services; and*

WHEREAS, *The Ninth Circuit Court decision recognizes the importance of considering both State and Federal interests in the development and implementation of policies on enhanced services; and*

WHEREAS, *FCC Chairman Alfred C. Sikes issued a statement on July 9, 1990, in which he emphasized the importance of State and Federal authorities working more affirmatively and cooperatively and further stated that he intends to continue to look for effective ways to work with States and avoid conflict among regulators; and*

WHEREAS, *Chairman Sikes also stated the FCC's intent to address again the issue of structural and nonstructural safeguards; and*

WHEREAS, *State and Federal cooperation on any safeguards improves the effectiveness of those safeguards; and*

WHEREAS, *As a result of the Ninth Circuit Court decision, States now have a greater responsibility and accountability for the development of ONA; now, therefore, be it*

RESOLVED, *That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), assembled at its 1990 Summer Committee Meeting in Los Angeles, California, hereby applauds Chairman Sikes for the efforts he has made to develop a cooperative spirit among State and Federal regulators; and be it further*

RESOLVED, *That the NARUC encourages the FCC and State regulators to collaborate through the Federal/State Joint Conference on Open Network Architecture (Joint Conference) to develop and implement compatible policies on the regulatory treatment of enhanced services and competitive safeguards; and be it further*

RESOLVED, *That, in the event the FCC finds that one or more States have adopted ONA policies incompatible with the FCC's objectives, the NARUC urges the FCC to work through the Joint Conference with the State(s) involved to resolve the difference; and be it further*

RESOLVED, *That the NARUC urges States to expeditiously adopt interim regulatory requirements where necessary to ensure the continued provision of enhanced services to customers and the continued growth of these markets, pending the adoption of final requirements as each State may determine; and be it further*

RESOLVED, *That, regardless of the form of competitive safeguards used, the State commissions and the FCC both should have complete access to information relevant to the to the enforcement of those safeguards; and be it further*

RESOLVED, *That the NARUC urges the FCC to affirm that States have unlimited authority to adopt intrastate ONA policies that do not negate the FCC's exercise of its own lawful authority over interstate communications; and be it further*

RESOLVED, *That the NARUC General Counsel be directed to express these policies in the appropriate forums and proceedings.*

*Sponsored by the Committee on Communications
Adopted July 25, 1990*