

Resolution Regarding Reciprocal Compensation Legislation In The
106th Congress

WHEREAS, The National Association of Regulatory Utility Commissioners ("NARUC") has previously adopted a resolution at its 1997 Fall Meeting that "at least as long as the FCC's current rule regarding ISP traffic remains in effect, such traffic should continue to be treated as subject to state jurisdiction in interconnection agreements or tariffs" and "be governed by the same legal authority of the applicable state commission that applies to all such interconnection agreements or tariffs;" and

WHEREAS, NARUC has previously adopted a resolution at its 1998 Summer Meeting stating that reciprocal compensation arrangements, including those for calls to Internet Service Providers ("ISPs"), are subject to state authority without the need for the FCC to intervene or otherwise act on this matter; and

WHEREAS, NARUC convened at its 1998 Summer Meetings in Seattle, Washington, found that if the FCC intervenes regarding the broader jurisdictional issues of Internet access over the public switched network, it should work cooperatively and expeditiously with the states, to consider under what circumstances and through what mechanisms this traffic may be treated as interstate, intrastate, or jurisdictionally mixed, and

WHEREAS, Congress is considering legislation that will foreclose states from allowing intercarrier compensation payments for calls to ISPs, and

WHEREAS, Court decisions to date support state jurisdiction

over reciprocal compensation arrangements, including calls to ISPs; and

WHEREAS, Reciprocal compensation agreements are best addressed through the existing statutory and regulatory framework in the 1996 Telecommunications Act; and

WHEREAS, Thirty-eight state commissions have ruled on the issue, 33 of which have found in specific cases that dialing a local number to reach an ISP will be treated like any other local call to a business customer; and

WHEREAS, Several State commissions are involved in generic proceedings or arbitrations re-addressing ISP-related issues; and

WHEREAS, On March 24, 2000, the U.S. Court of Appeals for the D.C. Circuit vacated certain provisions of the FCC's Reciprocal Compensation Ruling and remanded the matter back to the FCC stating that calls to ISPs do not clearly fit into either the local or long-distance category and that the FCC did not provide adequate explanation of the classification of calls to ISPs; and

WHEREAS, State reciprocal compensation decisions demonstrate that the states are carrying out their responsibilities in ensuring that local telecommunications providers are being adequately compensated for termination of traffic; *now therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners ("NARUC"),

convened at its 2000 Summer Meetings in Los Angeles, California, reaffirms its position that states have the authority to oversee reciprocal compensation; *and be it further*

RESOLVED, NARUC recommends that the FCC and Congress avoid imposing "one-size-fits-all" solutions to issues concerning reciprocal compensation where state commissions are in a better position to evaluate the particular contracts and competitive circumstances; *and be it further*

RESOLVED, That NARUC opposes any federal legislation that would foreclose reciprocal compensation payments and prevents states from tailoring the treatment of compensation for the completion of all relevant calls to ensure an appropriate balance among the locally competing interests; *and be it further*

RESOLVED, That the NARUC action taken herein should not discourage companies from working together to propose a comprehensive solution to this issue.

Sponsored by the Committee on Telecommunications

Adopted by the NARUC Board of Directors, July 26, 2000.