

**Resolution Concerning
the North American Free Trade Agreement**

WHEREAS, The United States, Mexico and Canada completed negotiations on a North American Free Trade Agreement (NAFTA or Agreement) in August of 1992, which is designed to phase out barriers to trade in goods and services in North America, eliminate barriers to investment, and strengthen the protection of intellectual property rights; and

WHEREAS, Chapter 13 of NAFTA addresses access and use of public telecommunications transport network ("public network") services for the provision of enhanced or value-added telecommunications services and intracorporate communications; and

WHEREAS, The operation and provision of public networks and services have not been made subject to NAFTA; and

WHEREAS, The policy goal underlying NAFTA, to open up the enhanced and value-added telecommunications markets of the signatory countries, is laudable; and

WHEREAS, The conditions for transparent and non-discriminatory access and use governed by NAFTA include: (1) the ability to lease private lines; (2) attach terminal or other equipment to public networks; (3) interconnect private circuits to public networks; (4) perform switching, signalling and processing functions; and (5) use operating protocols of the user's choice; and

WHEREAS, NAFTA prescribes conditions that generally impose limits, terms and conditions on the provision of enhanced or value-added services; and

WHEREAS, To the extent that a state regulatory commission has rules in place that conflict with NAFTA, those rules may be preempted and current state regulatory practices and procedures may be impeded; and

WHEREAS, The Agreement provides for a two year implementation period during which regulatory bodies may review their laws, regulations and other policies governing telecommunications to determine if any of these are in conflict with NAFTA, and if so, to seek an exception to the Agreement so as to avoid preemption by NAFTA; and

WHEREAS, The Agreement must be formally approved by Congress, through the enactment of implementing legislation, before the Agreement may take effect and Congress is expected to consider whether to approve NAFTA in the next few months; and

WHEREAS, NARUC's continuing interest regarding NAFTA is significant given the potential preemptive effect of the Agreement; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its Winter Meeting in

Washington, D.C., supports the policy goal of opening up enhanced and value-added telecommunications markets of the signatory countries; and be it further

RESOLVED, That NARUC expresses no opinion on the specific language set forth in Chapter 13 of NAFTA, relating to telecommunications; and be it further

RESOLVED, That NARUC calls upon the Office of United States Trade Representative to transmit directly to the Chairman of each state regulatory utility commission timely information and assistance concerning: (1) the identification of state laws, regulations or policies which may conflict with Chapter 13 of NAFTA; (2) the procedure for the states to seek reservations from NAFTA for any such laws, regulations or policies; (3) the status of Congressional action on NAFTA implementing legislation; and, (4) the specific time frames for the states' implementation of Chapter 13 of NAFTA; and be it further

RESOLVED, That NARUC requests an appointment to the USTR's Industry Advisory Committee on Telecommunications; and be it further

RESOLVED, That NARUC urges its members to undertake an evaluation of its existing telecommunications laws, regulations and policies to identify any that may conflict with NAFTA and seek exemptions from NAFTA for any such existing laws, regulations and policies; and be it further

RESOLVED, That the NARUC General Counsel shall file papers and other documents supporting the policies of this Resolution in the appropriate forums to further these recommendations.

Sponsored by the Committee on Communications
Adopted March 4, 1993
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