



JULY 2008 TRACKING & MONITORING REPORT: VOIP

The *CommLaw* Group provides the following updates on important regulatory activities and VoIP-related dockets pending before the Federal Communications Commission and State regulatory agencies.

☐ HEADLINES

➤ **President Bush Signs New E911 Legislation into Law**

On July 23, 2008, President Bush signed into law the “NET 911 Improvement Act of 2008.” This legislation, as previously reported, requires that all interconnected VoIP services provide basic and enhanced 911 services to all subscribers. To help achieve this mandate, the legislation grants VoIP service providers the same interconnection rights, on the same rates, terms, and conditions, as those that apply to providers of commercial mobile radio services.

In addition to this access mandate, the new legislation grants the FCC broad authority to develop national E911 services. First, the FCC is authorized under this legislation to work with public safety organization industry participants and the E-911 Implementation Coordination Office, a division of the Department of Transportation, to develop best practices, which promote procedures for:

- 1) defining geographic coverage areas for public safety answering points;
- 2) defining network diversity requirements for delivery of IP-enabled 9-1-1 and enhanced 9-1-1 calls;
- 3) call-handling in the event of call overflow or network outages;
- 4) public safety answering point certification and testing requirements;
- 5) validation procedures for inputting and updating location information in relevant databases; and
- 6) the format for delivering address information to public safety answering points.

Second, the FCC is permitted to compile a list of public safety answering point (“PSAP”) contact information and other information concerning 911 elements. The FCC can make any portion of the information available to telecommunications carriers, wireless carriers, IP-enabled voice service providers, or other emergency service providers to improve public safety.

The new legislation also provides uniformity among liability protections for IP-enabled voice service providers, local exchange companies, non-wireless 911 service users, and non-wireless PSAPs.

The new law additionally calls for telecommunications carriers to use, disclose, or permit access to call location information in the case of emergencies. VoIP providers are affirmatively required to provide subscriber list information to emergency service providers. However, the administrator of any emergency services database is prohibited from using this information for any competitive purpose under the new law.

Finally, the legislation permits states to extend existing 911 fees to instate VoIP providers.

□ FCC ACTIVITY & DEVELOPMENTS

➤ Recent FCC Regulatory Developments

AT&T Submits Three Requests Asking for Clarity Regarding the Intercarrier Compensation, Universal Service, and IP-Enabled Services Proceedings

On July 17, 2008, AT&T filed three significant requests with the FCC seeking clarification of issues surrounding Intercarrier Compensation, Universal Service Obligations, and IP-enabled Services Proceedings. Underlying all three of these petitions is the longstanding uncertainty surrounding the regulatory classification of VoIP under Federal law.

First, AT&T urges the FCC to unify all terminating intercarrier rates. To accomplish this, AT&T suggests that the FCC should adopt a regulatory framework that establishes a “national comparability benchmark.” Under this plan, the FCC will set a reasonable rate for phones services, and then adjust a number of variables in a systematic fashion to meet this benchmark. Alternatively, if the FCC chooses to forgo a comprehensive overhaul of the intercarrier compensation regime, AT&T urges the FCC to address the following specific issues on an individual basis:

- ISP-bound traffic
- Intercarrier compensation for VoIP traffic
- Traffic pumping,
- Asymmetrical compensation
- Interconnection point manipulation
- Phantom traffic.

AT&T asserts that if the FCC fails to address these issues in a timely fashion, specifically by November 5, 2008, they will be decided unilaterally by the D.C. Circuit in the ongoing court case, *In re: Core Communications, Inc.*

Secondly, AT&T has filed a Petition for Declaratory Ruling and Waiver with respect to VoIP compensation. This petition asks the FCC to declare on an interim, transitional