

March 7, 2019

***FILED VIA ECFS***

Marlene H. Dortch  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-B204  
Washington, DC 20554

Re: *Ex Parte* Notification  
WC Docket No. 13-39

Dear Ms. Dortch:

On March 5, 6 and 7, 2019 (as indicated), Robert S. Koppel (“Koppel”), on behalf of several clients of Lukas, LaFuria, Gutierrez & Sachs, LLP (“LLGS”) spoke by telephone with the following legal advisors: Arielle Roth, Office of Commissioner O’Reilly (March 5); Nirali Patel, Office of Chairman Pai (March 6), Travis Littman, Office of Commissioner Rosenworcel (March 6); Evan Swartztrauber, Office of Commissioner Carr (March 7); and Randy Clarke, Office of Commissioner Starks (March 7).

LLGS represents several clients who are U.S. long-distance service providers that hand-off 100% of their voice traffic *directly* to foreign carriers for termination to destinations outside the United States.

Koppel requested that the Commission add language to the forthcoming Fourth Report and Order to clarify that the Commission will not require the *final* “intermediate provider” in the United States to ensure that any additional, non-U.S. intermediate providers, are registered. Specific language is set forth in Attachment A (“Proposed Language Clarifying the Obligations of Certain “Intermediate Carriers”). Koppel emphasized that compliance with such a rule would be almost impossible, because foreign carriers with no operations in the United States will be unwilling to register with the Commission. Further, the Commission lacks jurisdiction over foreign carriers not operating in the United States.

Koppel also recommended that the final “intermediate provider” in the United States not be subject to the service quality standards and the requirement to actively monitor calls destined for rural areas. These rules appear be inapplicable to the final U.S. “intermediate provider” of calls destined for foreign countries.

As currently written, a U.S. “intermediate provider” handing off voice traffic to a foreign carrier that has not registered with the Commission would be violating the rules. Further, if asked by an

upstream provider to provide evidence or to sign a contract provision that all voice calls are handed off to registered carriers, the U.S. international service provider would not be able to do so.

The Rural Call Completion Act and the Commission's rural call completion rules were never intended to apply to calls destined for termination outside the United States. Section 262(c)(2) of the Rural Call Completion Act specifically provides as follows (emphasis added):

REQUIREMENTS. In promulgating the rules required by paragraph (1), the Commission shall –

- (A) Ensure the integrity of the transmission of covered voice communications to all customers in the United States; and
- (B) Prevent unjust or unreasonable discrimination among areas of the United States in the delivery of voice communications.

The typical voice call path, where Company A is a U.S. international long-distance service provider that hands off voice traffic to foreign carriers for termination to destinations outside the United States, is as follows:

- A U.S. originating carrier (*e.g.* a “covered provider”) routes the call to an “intermediate provider,” which could be Company A, or to one or more “intermediate providers” who ultimately hand off the call to Company A.
- Company A then carries the call to the border, *e.g.* Canada, where it hands off the call to a Canadian carrier for termination in Canada. The foreign carrier often then hands off the call to another carrier prior to termination to the called party.

The definition of “intermediate provider” applies to “an end user connection using a [North American] numbering resource.” The problem outlined above arises because North American numbering resources are also used in Canada, Mexico, and many Caribbean countries.

With regard to the registration requirement, Koppel recommended that within the on-line portal for registration, the Commission require “intermediate providers” to check one of three boxes, as set forth in Attachment A.

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Please contact the undersigned if you have any questions.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert S. Koppel". The signature is written in a cursive style with a large, stylized 'R' and 'K'.

Robert S. Koppel  
Lukas, LaFuria, Gutierrez & Sachs, LLP  
8300 Greensboro Drive, Suite 1200  
Tysons, VA 22102  
703-584-8669  
[bkoppel@fcclaw.com](mailto:bkoppel@fcclaw.com)

Attachment (draft language)  
cc (w/ attachment): All meeting participants

## **ATTACHMENT A**

### **Proposed Language Clarifying the Obligations of Certain “Intermediate Carriers”**

#### *Background:*

The law firm of Lukas, LaFuria, Gutierrez & Sachs, LLP (“LLGS”) represents several clients who are U.S. long-distance “intermediate providers” that hand-off 100% of their voice traffic directly to foreign carriers for termination to destinations outside the United States. On behalf of these clients, LLGS has requested that the Commission clarify that that it will not require the final “intermediate provider” in the United States to ensure that any additional, non-U.S. intermediate providers, are registered. LLGS emphasized that compliance with such a rule would be almost impossible, because foreign carriers with no operations in the United States will be unwilling to register with the Commission. Further, the Commission lacks jurisdiction over foreign carriers not operating in the United States. LLGS also noted that, if asked by an upstream provider to provide evidence or to sign a contract provision that all voice calls are handed off to registered carriers, the U.S. international service provider would not be able to do so.

LLGS also recommended that the final “intermediate provider” in the United States not be subject to the service quality standards and the requirement to actively monitor calls destined for rural areas. LLGS noted that these rules appear to be inapplicable to the final U.S. “intermediate provider” of calls destined for foreign countries.

LLGS provided an example of the typical voice call path, where Company A is a service provider that hands-off voice traffic to foreign carriers for termination outside the United States:

- A U.S. originating carrier (*e.g.* a “covered provider”) routes the call to an “intermediate provider,” which could be Company A, or to an “intermediate provider” who then hands off the call to Company A.
- Company A then carries the call to the border, *e.g.* Canada, where it hands off the call to a Canadian carrier for termination in Canada. The foreign carrier often then hands off the call to another carrier prior to termination to the called party.

On its face, the definition of “intermediate carrier” would apply to Company A, because the call is destined to “an end user connection using a [North American] numbering resource.” However, LLGS observes that Canada, Mexico, and many Caribbean countries use NANP resources.

#### *Discussion:*

We will not require “intermediate providers” that hand-off voice traffic directly to foreign carriers for termination to destinations outside the United States to ensure that their foreign downstream providers register with the Commission, or to comply with the service quality standards and the

requirement to actively monitor calls destined for rural areas. We will, however, expect such providers to register with the Commission. The on-line portal for registration will require “intermediate providers” to check one of three boxes, as follows:

The “intermediate provider” certifies with regard to the voice traffic that it carries that:

- ☐ All voice calls are destined for termination in the United States or handed off to another “intermediate provider” in the United States; or
- ☐ Some voice calls are destined for termination in the United States or handed off to another “intermediate provider” in the United States and some voice calls are directly handed off to foreign carriers for termination outside the United States; or
- ☐ All voice calls are directly handed off to a foreign carrier for termination outside the United States.

Our interpretation is fully consistent with Section 262(c)(2) of the Rural Call Completion Act, which specifically provides as follows:

- REQUIREMENTS. In promulgating the rules required by paragraph (1), the Commission shall –
- (C) Ensure the integrity of the transmission of covered voice communications to all customers in the United States; and
  - (D) Prevent unjust or unreasonable discrimination among areas of the United States in the delivery of voice communications.

Emphasis added. We find that it is not the intention of Congress or the Commission to apply the rural call completion rules, other than the registration requirement, to United States “intermediate providers” who directly hand-off voice traffic to foreign carriers for termination outside the United States.