

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Rural Call Completion)	WC Docket No. 13-39
)	

COMMENTS OF AFFINITY NETWORK, INC. D/B/A ANI NETWORKS

Affinity Network, Inc. d/b/a ANI Networks (“ANI”) respectfully files these comments pursuant to the Third Further Notice of Proposed Rulemaking issued by the Federal Communications Commission (“Commission”) in the above-referenced proceeding.¹

Introduction

ANI, headquartered in Nevada, is a facilities-based wholesale carrier providing high quality long distance services to a wide range of telecommunications carriers, including competitive local exchange carriers, incumbent carriers, cable providers, hosted voice over Internet protocol (“VoIP”) providers, wireless and switchless resellers. ANI offers carrier services, including carrier origination and termination services, as well as resale services, such as traditional 1+ services, outbound calling services, toll free services, and carrier identification codes translations. In the United States, ANI has switching centers in Los Angeles, New York City, and Dallas, as well as points-of-presence in Chicago.

ANI is both a covered provider and an intermediate provider, and is fully committed to ensuring that rural call completion reforms are successfully implemented, and urges the Commission to promptly adopt the proposals discussed herein.

¹ *Rural Call Completion*, WC Docket No. 13-39, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 18-45 (rel. April 17, 2018) (“*RCC FNPRM*”).

I. All Intermediate Providers Must Be Required to Register With the Commission, and to Avoid Gaming, the Scope of the Registration Requirement Should Be Broadly Interpreted.

ANI supports the Commission's proposal to implement the new Section 262(a)(1) of the Improving Rural Call Quality and Reliability Act of 2017 ("RCC Act")² by imposing a registration requirement on *any* intermediate provider that offers, or holds itself out as offering, the capability to transmit covered voice communications from one destination to another and charges any rate to any other entity for the transmission.³ Implementing this registration requirement will serve the public interest by enhancing accountability and transparency, as well as accomplishing the objectives set forth in the RCC Act, which include ensuring integrity in the transmission of covered voice communications and preventing unjust or unreasonable discrimination among areas of the United States in the delivery of such communications.⁴

ANI also agrees with the Commission that the Section 262(b) registration requirement applies to *any* intermediate provider that seeks to be used by a covered provider.⁵ ANI agrees that such parameters are appropriate even if an intermediate provider does not directly impose charges on a covered provider. In fact, ANI urges the Commission to broadly interpret the term "charge" in order to prevent gamesmanship. This means that the Commission should treat any form of direct or indirect consideration received by intermediate providers from covered providers as a "charge"—whether such consideration is monetary or an alternative. Stated differently, the FCC should ensure that if an intermediate provider does not impose monetary charges on a covered provider, but

² Improving Rural Call Quality and Reliability Act of 2017, Pub. L. No. 115-129 (2018) ("RCC Act").

³ See *RCC FNPRM*, ¶ 70.

⁴ See RCC Act (New Section 262(c)(2)).

⁵ See *RCC FNPRM*, ¶¶ 78-79.

instead obtains other forms of consideration, that intermediate provider would still be required to register.

Similarly, ANI supports the Commission’s broad interpretation of the term “use” in Section 262(b), which ANI also understands to mean that a covered provider may not rely on *any* unregistered intermediate provider in the path of a given call.⁶ ANI agrees that this is the most logical interpretation since Section 262(b) defines “intermediate provider” such that it refers to providers at all points in the call chain, only excluding covered providers who originate or terminate a given call.⁷ Accordingly, all intermediate providers offering to transmit voice communications for a rate to any other entity should be required to register. Unlike the alternative proposal of interpreting Section 262(b) to mean the covered provider is only required to ensure that the *first* intermediate provider in the call path is registered, requiring all intermediate providers in a call path to register will help the Commission achieve its objective of ensuring that “all participants in the call path share in the responsibility to ensure that calls to rural areas are completed.”⁸

Moreover, to achieve this objective, the Commission should clarify what types of entities do **not** fall within the definition of an “intermediate provider” if they are “only incidentally transmit[ting] voice traffic.”⁹ If the Commission were to supplement its proposed definition of “intermediate provider” to exclude such “incidental” providers, the Commission should specifically and narrowly define what is considered “incidental” so that carriers cannot game the

⁶ *Id.*, ¶ 79.

⁷ *Id.* (citing RCC Act (New Section 262(c)(2))).

⁸ *Id.*, ¶ 68; *see also id.*, ¶ 79.

⁹ *Id.*, ¶ 80 (citing Report of the Committee on Commerce, Science, and Transportation on S. 96, Improving Rural Call Quality and Reliability Act of 2017, S. Rep. No. 115-6, at 6 (2017)).

definition and exploit this potential loophole. If the term “incidental” cannot be *very* narrowly defined, ANI fears that such an exception could swallow the rule.

II. Strict Enforcement of the Section 262(b) Registration Requirement Should Begin After Covered Providers Have Sufficient Time to Implement Necessary Changes

ANI supports the Commission’s proposal to enforce Section 262(b) by requiring covered providers to use the intermediate provider registry to confirm the registration of a potential intermediate providers *before* purchasing service from such intermediate provider.¹⁰ Since it may take covered providers some time to become familiar with the new registration system and implement procedures to verify that all applicable intermediate providers have registered in accordance with the Commission’s requirements, the Commission should wait three (3) months after the initial implementation of the intermediate provider 30-day registration deadline before it begins enforcing the above-referenced requirement for covered providers.¹¹ A three (3) month transition period is reasonable and will give covered providers sufficient time to make any necessary contractual changes and/or traffic routing adjustments that the RCC Act and the Commission’s implementing regulations may require.

III. Service Quality Standards Should Reflect Basic Ground Rules, Not Complex Requirements

With respect to “service quality standards,” ANI fully supports the Commission’s proposal to adopt a basic set of ground rules for intermediate providers based on industry best practices for rural call completion.¹² Specifically, ANI urges the Commission to adopt requirements obligating intermediate providers to take reasonable steps to: (1) prevent “call looping,” a practice that

¹⁰ *RCC FNPRM*, ¶ 83.

¹¹ *See id.*, ¶ 84.

¹² *See id.*, ¶ 87

involves an intermediate provider handing a call for completion back to a provider that previously handed off that same call;¹³ (2) “crank back” or release a call back to the originating carrier, rather than simply dropping the call, upon failure to find a route; and (3) not process calls so as to “terminate and re-originate” them.¹⁴ While ANI supports such critical, basic ground rules, ANI urges the Commission not to impose more complex service quality standards, which may not be appropriate for all intermediate providers and could unnecessarily restrict carriers’ flexibility to determine the standards best suited to their individual networks.¹⁵

If the crank back requirement is adopted, ANI urges the Commission to ensure that the requirement is designed in such a way as to prohibit (or, at minimum, not incentivize) improper use of crank back release codes. For example, it is ANI’s understanding that certain providers have historically used crank back codes improperly, such as coding an unallocated number as a crank back rather than a code representing an unallocated number that would properly terminate the call. Any crank back requirement, therefore, must be designed to not incentivize this type of coding misclassification, as such improper coding would result in an unnecessary utilization of network resources and data integrity issues for covered providers trying to isolate and rectify call completion issues.

ANI also urges the Commission to help prevent a new form of arbitrage associated with crank backs (“crank back arbitrage”) uncovered by ANI that directly undermines the RCC Act’s

¹³ See *id.* (citing ATIS, Intercarrier Call Completion/Call Termination Handbook § 6.3 (2015)).

¹⁴ See *id.*

¹⁵ ANI supports implementing these basic ground rules with measures such as (1) proactive and reactive monitoring procedures and practices; (2) ensuring the timely resolution of trouble tickets and call completion complaints; (3) prohibiting call blocking and call choking; (4) requiring intermediate providers’ remove other providers exhibiting call completion issues from routing for to particular destinations or OCNs, and (5) contractually obligating downstream providers to also remove other providers exhibiting call completion issues from the problematic route.

objectives. Specifically, ANI has observed certain rural terminating local exchange carriers (“LECs”) that are involved in access stimulation – or their end users (such as a conference calling platform providers) – crank back calls delivered to the access tandem provider in the LERG in order to funnel traffic through their preferred carriers, so as to profiteer from any revenue sharing the LEC or its end users has with such preferred carriers. ANI proposes that the Commission address crank back arbitrage by removing any terminating rural LEC carrier found engaging in access stimulation from the NECA rural call completion operating company number (“OCN”) list. Absent such intervention from the Commission, covered providers and intermediate providers should not be held responsible for not completing calls to terminating rural LECs that engage in crank back arbitrage, as they appear to be *deliberately preventing* calls from completing through their LERG-assigned access tandem provider for monetary or other illegitimate reasons.

In addition, ANI agrees with the Commission’s proposal to remove an intermediate provider from the Commission’s intermediate provider registry if the carrier fails to perform at an acceptable service level.¹⁶ ANI also agrees that when an intermediate carrier fails to meet the Commission’s service level standards, other intermediate providers should be required to temporarily or permanently remove that intermediate provider from any routing path.¹⁷ The adoption these measures is critical as they will significantly improve covered providers’ ability to avoid routing calls through intermediate providers that do not satisfy Commission standards.

Beyond the aforementioned essential requirements, however, the Commission should not impose additional, more rigid rules or otherwise employ “one-size fits all” rules. Unnecessary, burdensome regulations will only serve to make it more difficult for small and mid-sized covered

¹⁶ See *RCC FNPRM*, ¶ 97

¹⁷ See *id.*, ¶ 89.

providers to ensure full compliance with rural call completion regulations, and will divert such carriers' limited resources.

IV. Intermediate Carriers Should Self-Monitor and Certify Their Compliance with Rural Call Completion Performance Requirements

ANI agrees with the Commission's proposal to have intermediate providers monitor their own rural call completion performance when transmitting calls to covered voice communications.¹⁸ ANI does not, however, support setting specific performance targets or thresholds due to the prevalence of data quality issues, particularly the variability in release codes received in various call scenarios.¹⁹ Instead, the Commission should require intermediate providers to file an annual certification that they comply with the Commission's registration requirements.²⁰ The adoption of this requirement would help ensure that intermediate providers cannot claim willful ignorance of the Commission's rural call completion rules.

ANI also agrees with the Commission proposal to modify its existing monitoring requirements for covered providers by creating a safe harbor for those covered providers working exclusively with intermediate providers that certify compliance with all applicable service quality requirements.²¹ While this proposed change would help covered providers satisfy Commission requirements and ensure that covered and intermediate providers' monitoring requirements work harmoniously, it would not jeopardize the Commission's ability to identify and/or penalize providers when necessary and appropriate.

¹⁸ *See id.*, ¶¶ 90-91.

¹⁹ *See RCC FNPRM*, ¶ 94.

²⁰ *See id.*, ¶ 88.

²¹ *See id.*, ¶ 111.

In addition, ANI urges the Commission to develop a framework of both proactive and reactive practice requirements for intermediate providers. For example, ANI urges the Commission to explicitly prohibit intermediate provider from blocking or restricting calls to rural areas.

Conclusion

For the foregoing reasons, the Commission should establish rules for intermediate providers that are consistent with the above comments.

Respectfully submitted,

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