

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

Comcast Corporation (“Comcast”) hereby submits these comments in response to the Third Further Notice of Proposed Rulemaking released by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding.¹

Comcast fully agrees with the Commission that “[a]ll Americans should have confidence that when a call is made to them, they will receive it.”² Accordingly, Comcast has endorsed the Commission’s past efforts to ensure that voice service providers successfully deliver long-distance calls to rural exchanges.³ Comcast also supports the Commission’s current efforts to implement the Improving Rural Call Quality and Reliability Act of 2017 (“RCC Act”) in order to better “ensure that calls are indeed completed.”⁴

4 Third FNPRM ¶ 2.

In advancing this policy goal, however, the Commission must be mindful that “the participants in the call path share in the responsibility to ensure that calls to rural areas are completed.”⁵ Toward that end, the Commission should reject sweeping proposals that would disproportionately burden covered providers, such as the proposals that would require covered providers to identify *all* of the intermediate providers that may carry their toll traffic to rural locations and to ensure they rely only on registered intermediate providers in their call paths. Instead, the Commission should require both originating and intermediate providers to: (1) maintain a list of the service providers with which they have a *direct* contractual relationship to complete calls; and (2) verify that those providers are registered. These measures will provide the Commission with effective safeguards against rural call completion failures while more fairly and efficiently distributing the burdens associated with the additional regulatory obligations.

II. THE COMMISSION SHOULD REQUIRE BOTH COVERED AND INTERMEDIATE PROVIDERS TO KEEP A LIST OF PROVIDERS WITH WHICH THEY HAVE A DIRECT CONTRACTUAL RELATIONSHIP

In the Third FNPRM, the Commission suggests that “allowing covered providers to not know the identities of their intermediates amounts to allowing willful ignorance.”⁶ To address this concern, the Commission seeks comment on requiring covered providers to “be responsible for knowing the identity of all intermediate providers in a call path” and to “maintain[] and furnish upon request . . . the identities of any or all intermediate providers in their respective call paths.”⁷ These proposals are both impractical and

⁵ *Id.* ¶ 68.

⁶ *Id.* ¶ 81.

⁷ *Id.* ¶¶ 81-82.

unnecessary to further the Commission’s rural call completion policy goals. As explained below, there are narrower requirements that would facilitate the Commission’s ability to address recurring rural call completion problems.

As a threshold matter, it would be virtually impossible for covered providers to acquire and maintain the information mandated by the proposed rules because covered providers typically only know the identity of the intermediate providers with which they directly contract.⁸ In addition, most contracts in place today do not obligate intermediate providers to disclose the names of other service providers to which the intermediate providers deliver traffic further downstream.⁹

Moreover, requiring covered providers to obtain this information through contractual commitments would be an administrative nightmare. Because each link in the transmission chain would almost certainly have service agreements with additional downstream providers, the list of intermediate providers would quickly become unmanageable and also likely would be constantly changing. More specifically, even when a covered provider’s agreement with an intermediate provider allows for only one or two additional hops, each provider with which that covered provider contracts could in

⁸ See, e.g., Comments of NCTA – The Internet & Television Association, at 6 (Aug. 28, 2017) (“Originating providers generally have no way to know, much less monitor, any providers in the chain other than the one with which they have an agreement.”); Comments of Iowa Network Services, Inc., at 14 (May 13, 2013) (“If a call is handed-off from the originating IXC to an intermediary carrier, which then hands the call off to a second intermediary carrier, neither the originating LEC nor the originating IXC will know the identity of the second intermediary carrier, which may be responsible for the call blocking.”).

⁹ To the contrary, such contracts sometimes require consent before an intermediate provider’s identity is disclosed. This is hardly surprising given the competitive sensitivities at play.

turn enter into agreements with multiple intermediate providers in order to be able to terminate traffic to locations throughout the country. In that event, requiring every covered provider to maintain an up-to-date list of the names of all downstream intermediate providers for every possible call route under each contract would quickly become an impossible objective.

Requiring the covered provider to track all intermediate providers from its position multiple “hops” upstream also would introduce multiple potential points of failure – *i.e.*, numerous exchanges in which intermediate provider information could be conveyed incorrectly – into the Commission’s proposed rural call completion enforcement regime. Inevitably, covered providers would be forced to expend significant resources gathering the names of downstream intermediate providers only to end up with an inaccurate and outdated list that does not prove helpful to the Commission.

Instead of adopting these impractical proposals, the Commission should require *both* covered and intermediate providers to maintain a list of the providers with which they have a *direct* contractual relationship. Importantly, this approach would be consistent with the Commission’s decision to require a covered provider to directly monitor the call completion performance of “each intermediate provider with which it contracts.”¹⁰

Further, the compliance costs associated with this more limited approach not only would be much smaller, but also would be reasonably allocated between covered and

¹⁰ 47 C.F.R. § 64.2111; *see also* Third FNPRM, App. B.

intermediate providers.¹¹ Indeed, even proponents of an intermediate provider disclosure requirement have recognized that providers must share this responsibility. For example, the National Association of State Utility Consumer Advocates has noted that “requiring originating *and* intermediate providers that make use of downstream intermediate providers to maintain on file with the Commission a list of the downstream intermediate providers they use . . . would not impose an undue burden on any company.”¹² Under this system, “[o]riginating carriers would not need to maintain a list of second- and third-tier downstream carriers” because “[e]ach carrier, including each downstream carrier, could maintain a list of the downstream carriers to which it hands calls.”¹³

Moreover, requiring covered and intermediate providers to maintain information about the providers to which they hand off calls would further Congress’s goal of “bringing transparency” to the intermediate provider market.¹⁴ Specifically, this approach should enable the Commission to compile, upon request to the covered and intermediate providers, the same list of all intermediate service providers that carry toll

¹¹ Comments of Level 3 Communications, LLC, at 5 (May 13, 2013) (“It is more appropriate for the Commission to directly police intermediate carrier activity than to rely solely on originating carriers to do so[.]”); Reply Comments of Level 3 Communications, LLC, at 3 (June 11, 2013) (“If the Commission intends to impose additional obligations on the industry, it is only sensible to impose those obligations on those best situated to not only provide useful information but also to fix the problem the Commission is attempting to solve.”); Reply Comments of Midcontinent Communications, at 4 (June 11, 2013) (“[I]ntermediate carriers are the ones that have the information necessary for the Commission to analyze call completion issues.”).

¹² Comments of the National Association of State Utility Consumer Advocates, at 6-7 (Aug. 28, 2017) (emphasis added).

¹³ *Id.*; see also Comments of Iowa Network Services, Inc., at 14 (May 13, 2013) (“[I]t will be important that each intermediary provider file a report identifying the name of the intermediary provider to which it handed-off the call.”).

¹⁴ 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 2 (2017).

traffic generated by a particular covered provider that the Commission's much more onerous proposal is designed to produce.¹⁵ Indeed, the information the Commission obtains will be more accurate than that which it would receive under its proposed approach because the Commission would be obtaining information directly from the provider in a contractual relationship with each intermediate provider.

III. THE COMMISSION SHOULD REQUIRE COVERED AND INTERMEDIATE PROVIDERS TO ENSURE THAT THE PROVIDERS TO WHICH THEY DIRECTLY HAND OFF TRAFFIC ARE REGISTERED

The RCC Act provides that a “covered provider may not use an intermediate provider to transmit covered voice communications unless such intermediate provider is registered.”¹⁶ The Commission seeks comment on how best to define the word “use” in this provision, specifically proposing that the “word ‘use’ . . . be understood to mean that a covered provider may not rely on *any* unregistered intermediate providers in the path of a given call.”¹⁷ In the alternative, the Commission seeks comment on interpreting “use” to mean that the “covered provider must ensure only that the first intermediate provider in the call path is registered.”¹⁸

¹⁵ With respect to state access to intermediate provider information, the Commission should only supply such information to the employees of state public utility commissions, upon request. In addition, disclosure of this information to state employees should be subject to confidentiality safeguards akin to those the Commission has implemented for submissions of the FCC Form 477. *See* 47 C.F.R. §§ 1.7001(d), 43.11(c); *see also Modernizing the FCC 477 Data Program*, Report and Order, 28 FCC Rcd 9887, ¶ 78 (“The Commission already makes [Form 477] data available to state commissions that are able to maintain their confidentiality.”).

¹⁶ Improving Rural Call Quality and Reliability Act of 2017, Pub. L. No. 115-129, § 262(b) (2018).

¹⁷ Third FNPRM ¶ 79.

¹⁸ *Id.*

The Commission should adopt its narrower alternative interpretation in connection with its proposal to require intermediate providers to ensure they do not directly transmit traffic to further intermediate providers that are not registered with the Commission.¹⁹ From a practical perspective, this interpretation accounts for each provider's lack of control over intermediate providers with which they have no direct contractual relationship. Moreover, the Commission will still obtain the result it ultimately seeks – *i.e.*, to ensure that traffic is transmitted only to registered providers – and thereby fulfill the relevant RCC Act requirements.

Conversely, it would be unreasonable and burdensome to interpret “use” to mean that a covered provider may not rely on any intermediate provider that is not registered. As noted above, there is no efficient means by which covered providers can obtain direct insight into all intermediate providers in a given call path. Furthermore, an expansive interpretation of “use” would inefficiently shift the compliance burdens away from parties in direct privity with each other onto the covered provider multiple “hops” upstream.

IV. CONCLUSION

For the foregoing reasons, the Commission should require originating and intermediate providers to: (1) maintain a list of the providers with which they have a direct contractual relationship to complete calls; and (2) ensure that the intermediate providers on this list are registered. These simple measures will provide the same protections against rural call completion problems as those proposed in the Third

¹⁹ *Id.* ¶ 95.

FNPRM while more fairly and efficiently distributing the burdens associated with additional regulatory obligations.

Respectfully submitted,

/s/ Kathryn A. Zachem

Kathryn A. Zachem

Beth A. Choroser

Regulatory Affairs

A. Richard Metzger, Jr.

Emily J. H. Daniels

John W. Castle

LAWLER, METZGER, KEENEY & LOGAN, LLC

1717 K Street NW, Suite 1075

Washington, DC 20006

Attorneys for Comcast Corporation

Brian A. Rankin

Andrew D. Fisher

Legal Regulatory Affairs

COMCAST CORPORATION

300 New Jersey Avenue NW, Suite 700

Washington, DC 20001

June 4, 2018