

August 16, 2018

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20554

**Re: *Ex parte* presentation in WC Docket No. 13-39**

Dear Ms. Dortch:

Inteliquent, Inc. (“Inteliquent”) files this letter to correct the record in response to multiple misleading and false allegations in the *ex parte* letter filed on August 7, 2018 by CarrierX, LLC d/b/a freeconferencecall.com (“Free Conferencing”) and HD Tandem.<sup>1</sup>

The Free Conferencing / HD Tandem *ex parte* letter purports to respond to the reply comments that Inteliquent filed on June 19, 2018 in the *Rural Call Completion* proceeding. In those comments, Inteliquent exposed an ongoing scheme in which Free Conferencing and HD Tandem appear to be intentionally and unlawfully blocking traffic to induce re-routing of access stimulated traffic from regulated to private pathways that benefit HD Tandem directly.<sup>2</sup> Tellingly, however, throughout their 10-page letter, Free Conferencing and HD Tandem conspicuously opt *not* to deny, or even attempt to explain, mounting evidence that they are engaged in an unlawful call blocking scheme. Instead, they attempt to litigate counterclaims they have filed in federal racketeering litigation that Inteliquent brought against Free Conferencing and HD Tandem in Chicago.

Free Conferencing / HD Tandem’s entire *ex parte* letter is a diversionary tactic to avoid the issues Inteliquent has brought to the Commission’s attention in its filing.

Indeed, since the filing of Inteliquent’s reply comments in June, the call blocking that Inteliquent brought to the Commission’s attention has continued. For example, when Inteliquent attempts to deliver access-stimulated traffic intended for telephone numbers assigned by Reasnor (an Iowa LEC) to Free Conferencing, today fewer than *two percent* of calls complete over the regulated path. Only if calls are rerouted to bypass the regulated path and traverse HD Tandem’s direct connection into Free Conferencing’s platform do the calls complete.<sup>3</sup>

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<sup>1</sup> See Letter from Stephen Wald, Counsel to CarrierX, LLC, d/b/a freeconferencecall.com to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-39 (filed Aug. 7, 2018).

<sup>2</sup> See *Rural Call Completion*, WC Docket No. 13-39, Reply Comments of Inteliquent, Inc. (filed June 19, 2018).

<sup>3</sup> When calls are blocked, Inteliquent route advances the calls to its long-distance vendors. Those vendors have told Inteliquent they send the calls to HD Tandem for completion.

Other parties that carry this traffic over the regulated path have verified these concerns in their own filings to the Commission. For example, in a filing on July 20, 2018, South Dakota Network, LLC (“SDN”) stated that it “has experienced a tremendous number of terminating calls, sometimes thousands per day, that, from SDN’s perspective, are being rejected by a CLEC engaged in access stimulation in connection with a ‘free’ conference calling customer.”<sup>4</sup> Similarly, on August 3, 2018, Iowa Network Services d/b/a Aureon (“Aureon”) explained that it has experienced the same arbitrage scheme Inteliquent described, “whereby calls routed by Aureon to a LEC are blocked, but when calls are routed to the LEC through HD Tandem, those calls miraculously complete.”<sup>5</sup>

Given that Free Conferencing and HD Tandem apparently continue to engage in call blocking to earn additional profit, it is not surprising that they fail to deny or even address the mounting evidence against them. They do, however, attempt to deflect and divert focus on their unlawful behavior by asserting that Free Conferencing has obtained access to inbound direct inward dialing (“DID”) voice service from Inteliquent. This is another obvious diversionary tactic.

Inteliquent has served as a provider of inbound voice service for hundreds of customers, including communication service providers and interconnected VoIP providers of all sizes. Multiple competitive LECs provide this service, which is an important input to many consumer and enterprise VoIP services. Years ago, Free Conferencing first obtained inbound voice services from Inteliquent in several markets. Over time, the amount of traffic Inteliquent terminates to Free Conferencing has decreased. In any event, there is nothing unusual or controversial about inbound voice service, and the fact that Free Conferencing obtains a *de minimis* amount—much less than one percent—of inbound voice service on a legacy basis from Inteliquent does not somehow provide Free Conferencing and HD Tandem with license to engage in unlawful call blocking.

As for the Chicago racketeering case, Inteliquent respectfully assumes the Commission can appreciate that Inteliquent will not litigate the racketeering claims in a series of reply or sur-reply comments in a rulemaking proceeding. Inteliquent has brought a federal racketeering suit, the lawsuit is under the jurisdiction of a federal judge, and Inteliquent intends to continue to pursue it vigorously. Free Conferencing and HD Tandem attempted to have the racketeering

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<sup>4</sup> *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Comments of South Dakota Network, LLC at 2-3 (filed July 20, 2018).

<sup>5</sup> *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Reply Comments of Iowa Network Services, Inc. d/b/a Aureon Network Services at 18 (filed Aug. 3, 2018). In Inteliquent’s recent experience, approximately 60 percent of minutes routed each month over the Aureon network are rejected by the terminating LEC and/or conference platform.

case against them dismissed, and they failed in that effort.<sup>6</sup> The case is proceeding, and Free Conferencing and HD Tandem will have a chance to raise their defenses in the federal court and they will be dealt with in the proper forum at the proper time. For present purposes, Inteliquent simply states that Free Conferencing and HD Tandem's entire set of arguments, their characterization of the claims and the facts and circumstances, their misleading quotes and soundbites from isolated documents, their inaccurate descriptions of facts, and their challenges to Inteliquent's own business are misplaced, false and rejected.

Inteliquent is also making this filing to correct the record so it is clear that it has acted consistently and transparently. Free Conferencing and HD Tandem are now trying to argue the essence of their counterclaims in their comments to the Commission. But it was Inteliquent—not Free Conferencing and HD Tandem—that sought the Commission's input on those counterclaims. Indeed, Inteliquent moved twice to have certain of Free Conferencing and HD Tandem's baseless counterclaims referred by the federal court to the Commission under the primary jurisdiction doctrine.<sup>7</sup> Free Conferencing and HD Tandem vigorously resisted that referral to *prevent* the Commission from hearing the issues that they now seek to raise.<sup>8</sup>

In sum, nothing about the *ex parte* letter filed by Free Conferencing and HD Tandem changes the fact that these parties continue to engage in traffic pumping and call blocking schemes that harm carriers and their customers throughout the public switched telephone network. The Commission wisely is focused on deterring such practices in the above-referenced docket, including by adopting new rules to improve rural call completion and to force traffic pumpers and their LEC partners to bear the cost of terminating the traffic they stimulate. Inteliquent looks forward to continuing to work with the Commission and other stakeholders to make those goals a reality.

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<sup>6</sup> *Inteliquent v. Free Conferencing Corp, et al*, Case No. 16 cv 06976, Mem. Opinion and Order, ECF 168 (Mar. 30, 2017).

<sup>7</sup> *Inteliquent*, Case No. 16 cv 06976, *Inteliquent Inc. 's Mot. to Dismiss and Supporting Mem.*, ECF 102-103 (Jan 18., 2017); *Inteliquent Inc. 's Mot. for Primary Jurisdiction Referral of Counterclaims and Supporting Mem.*, ECF 283-284 (Nov. 7, 2017).

<sup>8</sup> *Id.*, *Free Conferencing Corporation and HD Tandem's Mem. In Opp'n to Inteliquent, Inc. 's Mot. To Dismiss Counts II, IV, V, VI and VI*, ECF 119 (Jan. 31, 2017); *Defendants' Opp'n to Inteliquent, Inc and Matthew Carter's Mot. for Primary Jurisdiction Referral of Counterclaims*, ECF 297 (Nov. 30, 2017).

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Please direct any questions about this submission to the undersigned.

Sincerely,

**INTELIQUENT, INC.**

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