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September 20, 2019

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

**Re: *Ex parte* presentation in WC Docket No. 18-155**

Dear Ms. Dortch:

On September 19, 2019, Matt DelNero, as outside counsel to Inteliquent, Inc. (“Inteliquent”), met separately with (1) Nirali Patel, Wireline Advisor to Chairman Pai; and (2) Lisa Hone and Lynne Engledow of the Wireline Competition Bureau. On the same day, Thomas G. Parisi, also as outside counsel to Inteliquent, met with Arielle Roth, Wireline Legal Advisor to Commissioner O’Rielly. All three of these meetings took place by telephone.

The purpose of the meetings was to discuss the draft *Report and Order* in the above-referenced proceeding, and specifically to urge the Commission to include the following clarification in the final *Report and Order*: “The Commission clarifies that it will deem a call complete when an IXC or intermediate provider delivers the call to the tandem specified by the access stimulating LEC in the LERG.”

As Inteliquent and other parties have explained, some access stimulators are intentionally rejecting the very traffic that they have stimulated—all as a means to cause IXCs and/or intermediate providers to re-route this traffic to an unregulated intermediary owned by, or affiliated with, the access stimulator. By providing the requested clarification or otherwise making clear that IXCs and intermediate providers aren’t responsible for decisions of access stimulators or their partners to reject the stimulators’ traffic, the Commission will take away the incentive and ability of access stimulators and their LEC partners to evade anti-arbitrage protections through call-rejection schemes.

The requested clarification could be inserted in a new paragraph after current paragraph 60 of the draft *Order*, in a paragraph in which the Commission would (1) recognize that the record suggests access stimulators and their partners could attempt to evade the new anti-arbitrage rules through rejection of the very traffic that they stimulate in order to drive traffic onto alternate, unregulated routes over which they can demand fees from IXCs and intermediate providers, under the threat that the IXCs otherwise could be liable for call completion violations,

## COVINGTON

Ms. Marlene H. Dortch  
September 20, 2019  
Page 2

and (2) clarify that, in fact, access stimulators reject their traffic at their own risk, because if confronted with a complaint in which an access stimulating LEC or its high-volume calling partner has rejected, or caused to be rejected, calls to the high-volume calling platform, the Commission would deem the calls complete when an IXC or intermediate provider delivers the call to the tandem specified by the access stimulating LEC in the LERG. The Commission has ample legal authority to issue such a clarification to eliminate any uncertainty that access stimulators and their partners otherwise would exploit to evade anti-arbitrage rules.<sup>1</sup>

If, on the other hand, the Commission does not take action in response to evidence of these call-rejection schemes, access stimulators and their partners will attempt to evade the new anti-arbitrage rules. Under the new rules, access stimulating LECs will be responsible for tariffed tandem charges. Accordingly, they and their calling platform partners will be incentivized to get the calls off the regulated path and onto an alternate unregulated path where they will charge the IXC or intermediate provider excessive fees. Access stimulators also could use the call-rejection scheme to decrease their LEC partners' ratio of terminating-to-originating traffic and thereby avoid the Commission's anti-arbitrage remedies altogether. Inteliquent accordingly urges the Commission to address the significant and uncontested record in this proceeding concerning the dangers of access stimulators' call rejection schemes.<sup>2</sup>

Please direct any questions to the undersigned.

Sincerely,



Matthew S. DelNero  
Thomas G. Parisi  
*Counsel to Inteliquent*

cc: meeting attendees

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<sup>1</sup> See, e.g., 47 C.F.R. § 1.2 (“The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty”); see also 5 U.S.C. § 554(e) (“The agency, with like effect as in the case of other orders and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty”).

<sup>2</sup> See, e.g., AT&T Feb. 5, 2019 *Ex Parte* at 6; SDN Comments at 2-3; and INS/Aureon Reply Comments at 18. See also Inteliquent Comments at 3-5; Inteliquent Reply Comments at 4-5; Inteliquent Oct. 19, 2018 *ex parte* at 2-3; Inteliquent Nov. 16, 2018 *ex parte* at 1-3; Inteliquent April 18, 2019 *ex parte* at 14-18; Inteliquent May 14, 2019 *ex parte* at 12-16; Inteliquent Aug. 30, 2019 *ex parte* at 1-3; Inteliquent Sept. 16, 2019 *ex parte*; Sprint Sept. 3, 2019 *ex parte* at 3; Sprint Sept. 16, 2019 *ex parte* at 2; and Sprint Sept. 19, 2019 *ex parte* at 2.