



Network Consultant

Competitive Local Exchange Carrier

Internet Service Provider

September 25, 1998

Federal Communications Commission
Docket #98-147
1919 – M Street, N.W.
Washington, D.C. 20554

Dear Commissioners,

Thank you for the opportunity to comment in your NPRM 98-188. My company Virtual Hipster is an ISP and CLEC based in rural Fallon, Nevada. For the past several of years I have been working actively with technologies like DSL and ATM to develop advanced services. My business is based on the concept of vigorous competition envisioned by Congress in the 1996 Telecom Act. I appreciate the Commission's commitment to implement the provisions of the Act fairly as to encourage vigorous competition both now and in the future.

In paragraph 94 the Commission seeks comment on its statutory analysis of Section 251(c). The Telecom Act makes provisions for the time when a LEC supplants the old ILEC and becomes the incumbent. Clearly Congress intended for there to always be some sort of incumbent that would be responsible for the additional obligations of the ILEC under Section 251(c). Congress understood that the nature of communications is evolving rapidly. Clearly, if competition is to flourish in the future, the basic principals of the Telecom Act need to be adapted to advances in communications technology. Failure to do this will result in a dismantling of Congresses efforts to ensure competition in the future. Would be competitors would be left with an obsolete bag of tricks while the world moves on to bigger and better things. Competitors of significant scale may be able to deploy advanced networks where issues of availability of collocation space and right-of-way are of no concern. However, these are real concerns and given these realities it will be almost impossible for any competitor to offer Universal Service throughout a service area without access to the incumbent's xDSL loops. Competitors of lesser scale, without the resources to deploy an advanced network universally across a service area, but desiring to offer services that leverage the advantages of xDSL would be out of luck.

In paragraphs 96 & 97 the Commission seeks comment regarding the formation of advanced service affiliates by ILECs. If the affiliate is really separate then it must be required to collocate, interconnect and obtain access to unbundled copper loops in the same manner and under the same terms and conditions that a CLEC must. If the affiliate is allowed to purchase buildings or copper loops previously owned by the ILEC or if it constructs new buildings and copper loops to

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service new areas then it is acting in the same manner as the ILEC. These facilities must be available to competitors.

As advanced convergent networks and services capable of supporting voice, video and data supplant conventional communication services the advanced services will no longer be advanced but will be considered conventional. Nothing prevents the affiliate from offering voice and video services over its advanced data service network. In fact this is likely because as it would be the most efficient means of operation. The result will be that the old BOC ILEC is likely to become a shell of its former self as customers and services are moved from the regulated BOC to the unregulated affiliate to take advantage of the services and features offered by the advanced convergent network. The shell would likely act only as a holding company for buildings and copper loops. The result of this will be an unregulated, mega-merged, anti-competitive perversion of what Congress intended without any incumbent obligated to provide advanced service UNE's to smaller non-dominate providers.

Access to DSL loops is critical to promote competition. Otherwise smaller providers who cannot afford to deploy DSL widely across a service will be prevented from offering services which depend on the advanced capabilities of DSL. Requiring each service provider to deploy its own DSL equipment at each CO will result in a large duplication of effort. This will further exacerbate the current problems with available space in CO facilities. Ultimately this may stifle competition.

Exempting advanced services from the idea that there must be some sort of incumbent requires that each provider of advanced services deploy its own DSL equipment in all areas that area to be served. This is likely to stifle competition in small rural areas. In these areas there is often enough demand for advanced services to justify 1 piece of DSL equipment at each location but there is insufficient demand to justify that each provider who may want to compete in an area install their own DSL equipment.

In paragraph 102 the Commission seeks comment regarding Internet and information services provided by ILECs and their affiliates. As advanced services are deployed using DSL there is no longer the need for modems connected to a phone line. This will put a squeeze on unaffiliated Internet service providers. Internet service providers that are unable to capitalize on new technologies will be unable to compete as technology continues to push forward.

In paragraph 106 the Commission seeks comment on advanced services already deployed by ILEC and de minimis exemption. The BOCs have already done a significant amount of research, planning and testing of DSL equipment in various trails around the Country. These efforts have benefited because of their association with the ILEC. Allowing them to be transferred to an advanced service affiliate gives that affiliate an unfair advantage over a CLEC. In this case they start with a pre-existing, installed, tested and working, advanced DSL network which is already in a dominant position in the market. How unfair to CLECs who have been delayed and disadvantaged by having to battle for collocation and access to UNE loops!

In paragraph 110 the Commission seeks comment on the location of equipment transferred from an ILEC to its affiliate. The Commission should not allow an affiliate to locate equipment anywhere that would be unavailable to a CLEC.

In paragraph 113 the Commission seeks comment on other transfers from ILEC to affiliate such as customer accounts, employees & brand names. There should be no transfer of customer proprietary network information (CPNI) unless such information is also made available to CLECs. To do otherwise would be grossly unfair. I didn't start my business with a list of every home and business and an account history for each one. Further, the affiliate should also not be able to leverage the brand name recognition of the ILEC. If the affiliate is to truly be separate and compete on a peer basis with CLECs then it should not be linked by a brand name to the ILEC. The affiliate should not have access to any resources, assets or information belonging to the ILEC that is unavailable to CLECs.

In paragraph 117 the Commission seeks comment on trying to prevent existing ILEC networks from degrading. The Commission seems to want ILECs to continue to invest and innovate but this won't happen. Circuit switched voice networks are the past. Advanced convergent multi-service networks are the future. Innovation and investment will be directed toward future networks deployed by affiliates especially if these affiliates are free from regulation.

In paragraphs 122 - 125 the Commission seeks comment on the adoption of national standards. As a CLEC in rural Fallon, Nevada Virtual Hipster believes that national standards are needed. First, it is more economical to deploy services and products when areas have the same standards. For example consider common household 110VAC 60HZ electricity in the United States. What would happen if each of the 50 states had its own voltage, frequency and style of plug? Second it servers to reinforce the idea that certain minimum standards apply to all communications service providers both ILECs and CLECs, from the largest cities to the smallest towns.

In paragraphs 126 - 135 the Commission seeks comment regarding collocation. It is much more efficient if equipment that needs to be interconnected can be located in close proximity. Collocation avoids the associated costs of transport and allows the sharing of the expenses for things like buildings, generators, HVAC systems and 24x7 monitoring and maintenance of these critical systems. Therefore the Commission should allow all types of equipment to be collocated where space is available. Where space is not available tax credits or some other sort of credits should be given to companies that take buildings, configure them with fiber optics so that are virtually collocated with COs in an area and lease out space to competitive service providers. This will serve to encourage rapid deployment of advanced services.

In paragraphs 136 - 144 the Commission seeks comment regarding the allocation of space. The fees that ILECs want to charge for collocation are far too excessive and are a significant barrier to entry for all but the largest CLECs. This is especially true if the CLEC is forced to collocate in every CO or remote terminal. Recognizably the space is premium and there are costs to convert and maintain facilities. However these costs are depreciated over a long period and can be spread over multiple competitors who may collocate in the same facility. If fees were more realistic and

regulations were relaxed this would encourage more competitors to locate equipment in central offices where the costs to interconnect would be lower. This would make the overall service less expensive for end users. Lower prices will encourage more consumption that will drive more rapid deployment of advanced services. It's been almost three years since the Telecom Act passed. We all want more competition and this is an area that would help small and medium CLECs significantly.

In paragraph 142 the Commission asks if it should require ILECs to remove obsolete equipment and non-critical offices in central offices to increase the amount of space available for collocation. Absolutely, space in the central office is a premium and access to central office facilities is critical to competition. Would it be preferable to retain obsolete and presumably bulky equipment, or require it to be removed so that state of the art equipment could be collocated in its place. Presumably there would be enough space to locate a new state of the art replacement for the obsolete piece of equipment if desired. Tax credits would help here.

In paragraph 145 - 149 the Commission seeks comment on space exhaustion. Virtual Hipster agrees with the Commission's tentative conclusions.

In paragraph 148 the Commission seeks comment on measures that would facilitate the use of virtual collocation for the provision of advanced services. It would greatly facilitate Virtual Hipster's deployment for the Commission to require that the ILECs allow me to combine and resell their DSL loops as UNEs. This is especially important as we move to services like VDSL that must be collocated in remote terminals which are much smaller than central offices and more subject to space exhaustion and which don't offer the same opportunities for equipment security. It would speed Virtual Hipster's deployment if it could buy transport either as ATM cells, or as a timeslot in SONET, from a central virtual collocation facility to remote terminals. At the remote terminals it would then buy DSL UNEs combined together with this transport. Using this as a base, higher layer services could be developed and deployed that extend the features and functions of these lower layer services.

In paragraphs 157 & 158 the Commission seeks comment on loops and operations support systems. Virtual Hipster has had a difficult time obtaining any type of information from the local ILEC. Recently, the ILEC installed a new 5ESS and cut over from its old switch. Many unforeseen problems occurred and some phones were out for as much as a week. Virtual Hipster's service was down for an entire business day. It is my understanding that many of these unforeseen problems were due to inadequate documentation of the existing system. It is this lack of documentation by ILECs that is probably the main reason behind their reluctance to provide CLECs with documentation. The Commission should require that communications systems be documented in an electronic database in accordance with TIA/EIA-606. Further the Commission should require that this database and all associated technical drawings be made available either via a web site or on CD-ROM.

In paragraphs 165 - 176 the Commission seeks comment on unbundling loops passing through remote terminals. This is critical to the future of competition. If a carrier is to deploy services in

an area without collocating at every remote terminal then these sorts of loops and sub loop elements must be unbundled. Collocation should be permitted at remote terminals, and the incumbent should be required make available for resale and recombination all types of UNEs. Competitors should be able to buy transport to these UNEs as ATM, Frame Relay, SONET, T-1 or whatever connects the remote terminal to the central office.

In paragraphs 185 - 189 the Commission seeks comment on resale obligations under Section 251(c)(4). Virtual Hipster agrees with the Commissions tentative conclusion in paragraph 189 that advanced services offered by ILECs should be subject to resale.

Sincerely,
Shad Nygren
President, Virtual Hipster Corporation