

October 25, 2004

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20054

Re: *Notification of Ex Parte Presentation, WC Docket Nos. 04-36, 03-211*

Dear Ms. Dortch:

On October 22, 2004, Carolyn Brandon, Vice President, Policy of CTIA – the Wireless Association™ (“CTIA”), and Paul Garnett, Director, Regulatory Policy of CTIA, together with L. Charles Keller and the undersigned of this firm, met with Terri Natoli, Russell Hanser, Christi Shewman, Michael Goldstein, and, via telephone, Darryl Cooper of the Wireline Competition Bureau.

During the meeting, CTIA urged the Commission to find that IP-enabled services are subject to exclusive federal jurisdiction. As an initial matter, CTIA observed that the Commission need not determine the classification of IP-enabled services as telecommunications service or information service in order to address the threshold matter of jurisdiction. CTIA noted that a traditional end-to-end analysis cannot be performed for IP-enabled services. By their nature, IP-enabled communications defy state (or national) boundaries as IP networks route individual IP packets from the same communication over a multitude of routes. Increasingly, users access IP-enabled services from any broadband connection. Moreover, as the Commission has recognized, IP-enabled communication does not necessarily have a definable termination point in the traditional sense. “In a single Internet communication, an Internet user may, for example, access websites that reside on servers in various states or foreign countries, communicate directly with another Internet user, or chat on-line with a group of Internet users located in the same local exchange or in another country, and may do so either sequentially or simultaneously.”<sup>1</sup> As a result, it is impossible to separate out for state regulation an intrastate component of IP-enabled communication. The Commission should consider the unique and novel nature of these emerging services and find them inherently interstate, subject to exclusive federal jurisdiction.

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<sup>1</sup> *GTE Telephone Operating Cos.*, Memorandum, Opinion and Order, 13 FCC Rcd 22466, 22479 (1998).

WILKINSON ) BARKER ) KNAUER ) LLP

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Pursuant to section 1.1206(b) of the Commission's rules, this letter is being filed electronically in the above-referenced proceedings.

Respectfully submitted,

  
Adam D. Krinsky

cc: Terri Natoli  
Russell Hanser  
Michael Goldstein  
Christi Shewman  
Darryl Cooper