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November 1, 2004

**SUMMARY OF
EX PARTE PRESENTATION**

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWA325
Washington, DC 20554

**Re: IP-Enabled Services, WC Docket No. 04-36; Vonage Petition for
Declaratory Ruling, WC Docket No. 03-211**

Dear Ms. Dortch:

On October 29, 2004, James W. Olson and the undersigned, United States Telecom Association (USTA), and Trent Boaldin (via telephone), Epic Touch Company, met with Matthew A. Brill, Legal Advisor to Commissioner Kathleen Q. Abernathy of the Federal Communications Commission (Commission). On November 1, 2004, USTA and Trent Boaldin participated in a conference call with Scott K. Bergmann, Legal Advisor to Commissioner Jonathan S. Adelstein. In these meetings, USTA discussed the above referenced proceedings.

USTA articulated that the Commission should find that IP-enabled services are interstate in nature and preempt state regulation. Because of the complexities of routing and tracking origination and termination of IP-enabled calls, the service should be classified as interstate and should be regulated at the federal level. To invite state regulation of such services and facilities would also result in a chaotic patchwork of regulation over a competitive sector of the economy, which would stifle economic growth and innovation. In addition, consistency requires that the FCC not only act on the Vonage petition, but broadly find that all IP-enabled services are subject to interstate federal jurisdiction.

Further, if the Commission classifies IP-enabled services as interstate, it must also ensure parity of treatment among providers of analogous services by requiring that all IP-enabled service providers that use local networks to originate or terminate voice calls should pay access charges at the same rate as other carriers with whom they compete. Finally, the Commission must remain mindful that IP enabled service providers, like existing telecommunications providers, should be required to fulfill social goals such as contributing to universal service, ensuring that law enforcement authorities can meet public safety needs, and providing all Americans with access to 911 services.

Ms. Marlene Dortch
November 1, 2004
Page 2 of 2

In accordance with Section 1.1206(b)(2) of the Federal Communications Commission's (FCC) rules, this letter is being filed electronically with your office. Please feel free to contact me at (202) 326-7271 should you have any questions.

Sincerely,



Michael T. McMenemy
Associate Counsel

cc: Matthew A. Brill
Scott K. Bergmann