

INTERNET BACKBONE HARMS AND REMEDIES

Customers currently receive low-cost, high-quality access to the Internet, without the need for regulation, in part because a large number of Internet backbones currently engage in settlement-free peering.

Harms

The mergers will create two “mega peers” with the ability and incentive to de-peer other Internet backbones.

- The mergers will create two networks that will carry far more IP traffic than any single network carries today. (Note: Despite our requests, the Commission has not required the applicants to disclose their projections for the growth of their networks.)
- The two vertically integrated BOC-IXC networks will have customer relationships with millions of sticky eyeball customers that send little data but receive a lot of data.

Remedies

- The applicants should be required to (1) maintain and honor a publicly accessible peering policy, (2) publish anonymous usage statistics concerning the backbones with which they engage in settlement free peering, and (3) peer with other backbones on a non-discriminatory basis.
- The applicants should be required to maintain settlement free peering with at least as many backbones as they peered with pre-merger.
- The applicants should not be permitted to de-peer backbones based on traffic ratios. SBC does not currently use a traffic ratio, and the applicants have failed to provide a cost-justification for the use of a ratio.

The applicants contend that the mergers will not put them in a position to de-peer other backbones. If that is so, they should not object to these conditions.