

Rural Alliance

Operationalized Merger Conditions

IP Conditions:

1. The merged companies and their Internet backbones cannot deny interconnection and cannot discriminate against smaller ISPs. Backbone access is essential to protect rural and small ISPs because without it, service is impossible. Even the Barton/Dingell/Pickering Draft legislation recently introduced in the House recognizes the importance of interconnection by stating in Sec. 103 that “Each BITS [Broadband Internet Transmission Service] provider has the right and duty to interconnect and exchange traffic with other requesting BITS providers, BIT providers, and telecommunications carriers.”
2. The FCC should open a proceeding to establish minimum terms and conditions for price and quality of service related to IP interconnection, including both IP backbone and middle mile connections. The Statement of Generally Available Terms and conditions (“SGAT”) that would result from this proceeding should be completed within twelve months. The SGAT will be reviewed by the FCC periodically to ensure that it continues to be reasonable in comparison to other prices paid in the marketplace. The implementation of SGATs will allow smaller ISPs to have a “worst case scenario” that will at least ensure reasonable interconnection terms. It in no way restricts carriers (either large or small) from negotiating alternative arrangements, but provides some protection for those carriers with little bargaining power.
3. Non-disclosure provisions in interconnection agreements should be deemed illegal.
4. Blocking or manipulating data to create a competitive advantage should be deemed illegal.
5. Existing IP interconnection arrangements between small ISPs and merged entities will be “grandparented.” This condition can be used to preserve status quo for small ISPs while new rules are being developed.
6. Merged companies should be required to maintain peering arrangements equivalent to the existing levels in existence today. Therefore, if currently AT&T and SBC peer with each other, a new peering relationship(s) of roughly equivalent size would need to be established to replace the loss of that relationship through merger. The requirement level should include both the size and number of peering entities. The Commission will need to make confidential inquiries with the companies in order to determine the level of peering necessary.

Circuit-switched Conditions:

1. Compensatory access rates should be paid for both origination and termination of long-distance traffic.
2. Tandem switching rates should be cost-based for a period of five years. Merged companies cannot deny interconnection and cannot discriminate against smaller tandem providers.