



April 30, 2008

ELECTRONIC FILING

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

Re: *Ex Parte*, RM-11361

Dear Ms. Dortch:

There have been reports that the Commission is considering dismissing the Petition filed by Skype Communications S.A.R.L. (“Skype”) in the above-captioned proceeding.¹ If the reports are correct and the Commission proceeds to dismiss the Skype Petition, the Information Technology Industry Council (“ITI”)² urges the Commission, in doing so, to retain an oversight role with respect to the wireless industry and ensure that wireless broadband service offerings are consistent with the consumer rights established in the Commission’s Broadband Policy Statement.³

In comments filed in response to the Skype Petition, ITI noted its longstanding support for broadband connectivity principles and expressed its view that the Broadband Policy Statement, including the principles that consumers may run applications of their choice and attach nonharmful devices to the network, applies to wireless networks.⁴ By ensuring that wireless broadband service offerings adhere to these principles, the Commission will provide consumers with significant benefits, including access to

¹ Skype Communications S.A.R.L., *Petition to Confirm A Consumer’s Right To Use Internet Software and Attach Devices to Wireless Networks* (filed Feb. 20, 2007).

² The Information Technology Industry Council (“ITI”) represents the nation’s leading information technology companies, including computer hardware and software, Internet services, and wireline and wireless networking companies. ITI is the voice of the high tech community, advocating policies that advance U.S. leadership in technology and innovation, open access to new and emerging markets, support e-commerce expansion, protect consumer choice, and enhance global competition. For more information on ITI, including a list of its members, please visit <http://www.itic.org/about.php>.

³ *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, CC Docket No. 02-33, *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, CS Docket No. 02-52, Policy Statement, FCC 05-151, at 3 (rel. Sep. 23, 2005) (“Broadband Policy Statement”).

⁴ Comments of ITI, RM-11361, at 2-5 (Apr. 30, 2007) (“ITI Comments”).

wireless hardware and software innovation and new software-defined sources of competition.⁵

While there have been positive developments in this regard, not the least of which are the Commission's own requirements for an "open platform" in the C-block portion of the 700 MHz spectrum, continuing Commission oversight and enforcement of the Broadband Policy Statement are imperative.⁶ ITI reiterates its earlier position that, while it is premature to promulgate regulations, the Commission should monitor wireless industry practices to ensure that wireless network operators adhere to the Broadband Policy Statement, and should review and resolve any related complaints alleging nonconformance with the policy principles on a case-by-case basis.⁷

Please do not hesitate to address any questions to the undersigned.

Respectfully submitted,



Rhett Dawson,
President
Information Technology Industry Council

⁵ ITI also recognized that the Commission's Broadband Policy Statement should be construed in light of the particular broadband technology at issue, and that wireless carriers may have unique and legitimate technical, security, and regulatory compliance issues. *Id.* at 4-5. However, regardless of the technology being used, "harm to the network" should not be used as a pretext for anticompetitive behavior. *Id.* at 5.

⁶ As ITI and the High Tech Broadband Coalition previously recommended, "[a] clear statement from the Commission that it will take prompt enforcement action when presented with information about activity contrary to these connectivity principles would provide necessary certainty to the high tech community [...] and ensure that the hallmarks of the Internet will endure in the broadband future." *Ex Parte* Submission by the High Tech Broadband Coalition, CC Docket No. 02-33, CS Docket No. 02-52 (Aug. 2, 2005).

⁷ In doing so, the Commission should encourage cooperative industry standard-setting and rely on such standards as appropriate.