

July 24, 2008

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

Re: Erratum—WC Docket No. 07-135, In the Matter of
Establishing Just and Reasonable Rates for Local Exchange Carriers

Dear Ms. Dortch:

On July 24, 2008, Public Knowledge submitted an *ex parte* in the above-referenced docket. Unfortunately, due to an oversight, the docket number was entered incorrectly in the heading of the document. A revised document, correcting this error, is submitted below.

Respectfully submitted,

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July 24, 2008

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

Re: Notice of *Ex Parte* Presentation—WC Docket No. 07-135, In the Matter of
Establishing Just and Reasonable Rates for Local Exchange Carriers

Dear Ms. Dortch:

This is a textbook case of incumbent companies, accustomed to market privilege, begging the “grown-ups” of the FCC to restore the near-monopolies that they presume is their divine right, rather than competing in the marketplace by offering high quality products at compelling prices. For decades, the inter-exchange carriers (IXCs), such as AT&T, Sprint, and (more recently) Verizon, have used their long-distance dominance to exert a stranglehold on the conference call industry. The result of this near-oligopoly has been, and continues to be, inconvenient, inflexible, and expensive conference call services for end consumers. However, in recent years, more nimble and innovative conference call technology companies have teamed-up with local exchange carriers (LECs) to provide more flexible conference calling services, with more features, often at fractions of the prices charged by the IXCs.

Having been beaten thusfar on the marketplace playing field, the IXCs now seem to be trying to disallow the competitors that have been beating them. This approach represents the height of anti-competitive behavior, signaling an unwillingness or inability to innovative and provide consumers with the best products and services available. Such behavior runs counter to the goals of the Commission and the values of the United States. The Commission should reject the IXCs’ complaints and should applaud the technological and business innovations made by the conference call providers and their partner LECs.

WHY THE IXCs’ THREE REQUESTS SHOULD BE REJECTED

The IXCs make three requests of the Commission: 1) that the LECs must report their access traffic quarterly to guard against consumer aggregation, 2) that the Commission essentially declare the conference company and LEC revenue sharing arrangements to be illegitimate and 3) that the Commission essentially declare the LECs’ termination fees to be considered “unreasonable.” Each of these requests is baseless, meritless and should be rejected by the Commission.

1. Meritless Claim #1: LECs’ Consumer Aggregation is Illegitimate
 - a. The IXCs’ first request is that “certain [LECs] report their quarterly access traffic, to provide transparency that will both deter traffic pumping schemes

and enable quick discovery of schemes that do develop.” The term “traffic pumping schemes,” is a politically-contrived term for the traditional business concepts of “consumer aggregation” and “marketing.” Every business in the world, even the IXCs, tries to attract customers or consumers for its products and services. It is the very essence of market competition. There is nothing invalid, illegal, or wrong about it. In fact, the drive to develop a user base is necessary for innovation and economic growth. The IXCs’ bitterness likely stems more from being thoroughly out-competed for consumers in the conference call marketplace.

2. LECs’ Revenue Sharing Arrangements Are Illegitimate

- a. The IXCs’ second request is that “certain [LECs] submit certifications with their tariffs that they will not enter into improper access revenue sharing arrangements...” There is nothing per se unlawful about revenue sharing arrangements, either by the LECs and conference call companies, or other parties. The Commission has ruled as much on numerous occasions (*Jefferson Telephone*, *Frontier Communications of Mt. Pulaski* and *Beehive Telephone*). Moreover, the LEC/conference call provider arrangements are what enable free services for consumers. Ironically, AT&T itself engages in revenue sharing arrangements by paying aggregators to increase its 0+ traffic and by paying Apple to generate AT&T wireless traffic with iPhones. The IXCs seem to be seeking not only to inhibit competition but to also to restrict consumer benefits.

3. LECs’ Fees Are Unreasonable

- a. The IXCs’ third request is for “prompt reductions in tariffed rates in the event any of these [LECs] do experience extraordinary increases in traffic above specified benchmarks.” The tariffed rates are legitimate. A call to Iowa is tariffed as a call to Iowa.

It is unclear why the IXCs suggest that the LECs’ rates must be tied to the success of their marketing activities and the number of users the LECs aggregate. The IXCs are not forced to lower their rates as more people use their services. There is no reason that the LECs must be forced to do so. It makes little economic or policy sense to punish companies for successfully aggregating consumers and providing them with high quality services that they use and enjoy.

IXCs are facing intense—and welcome—competition largely because their rates are exorbitantly high. For example, AT&T’s “basic” international calling rate to Central America is \$4/min. Companies such as Futurephone provide that same service for \$0.06/min. For conference calling, IXCs generally charge between \$0.12-0.28 per minute per caller. Conference calling companies, such as Global Conferencing Partners charge \$0.035-0.10 per minute per caller, while also providing many more features and a higher degree of flexibility. If the price and quality differential were not so apparent, there would be little

incentive for users to turn to alternate services. Because most users are already IXC customers, it would be more convenient for their customers to use their services. The IXCs could likely retain a high percentage of their conference call business by simply offering competitive services. But the disparity in quality and price is great enough that consumers have been migrating to alternative providers. Again, rather than trying to step up to the plate in the marketplace, the IXCs beg the Commission to simply eliminate a consumer benefit in order to help them compete.

THE IXCs' POLICY ARGUMENTS SHOULD ALSO BE REJECTED

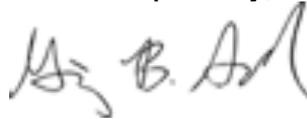
The IXCs also make three policy arguments, each of which should be rejected. The first of these arguments is based on the cliché fear tactic of “pornographic materials that can be accessed by children.” Most LECs never extend marketing to adult chat lines, nor are those chat lines marketed to children. Chat lines, even adult-themed ones, are generally legal and protected speech and could not be shut down by a phone company—even if the company wished—since the company may not monitor its users’ calls, nor are communications companies responsible for the conversations of its callers. The IXCs do not monitor the conversations of their callers and their own services likely have many of the same types of users, including adult-themed users, as the LECs.

Second, the IXCs complain that “rather than upgrading their facilities and making other investments to provide the best possible service to their customers, the traffic pumping [LECs] are investing their resources in kickback arrangements and other inefficient activities.” This absurd argument is analogous to a text book writer complaining to his mother that a novelist isn’t writing properly. Businesses invest their capital as they see fit, just as the IXCs do. It is also ironic that the IXCs would be so concerned about whether the LECs are providing “the best possible service to their customers” when the LECs are providing better services than the IXCs are, in terms of features, convenience, price, and usage growth.

The IXCs’ final policy complaint is that the LECs’ services, “if left unchecked, will inevitably result in increased long-distance prices throughout the country because the Commission’s geographic averaging rules will require IXCs to recover the increased costs associated with these activities from all of their customers, not only those located in the areas where this unlawful conduct takes place.” This is a naked threat based on false logic. AT&T’s statement forebodes that the Commission must shut down the LECs’ services or the IXCs will raise prices. Threats and coercion are not the basis of sound public policy. Second, the given logic suggests that, since the LECs’ services are cheaper than those of the IXCs, the IXCs will have to increase their rates. This conjecture conflicts with economic theory and with empirical evidence. When one commodity service provider cuts prices, other providers must also cut prices to avoid losing business. In fact, MCI serves as an apt case study within the telephone industry. MCI’s innovations with microwave technology enabled it to provide cheap telephone services by working around the existing AT&T telephone monopoly. The result was more competition, more choice, and *lower prices* for consumers. This is how functioning markets are supposed to work. That was the case then. That remains the case now.

We ask that the Commission continue to encourage innovation, greater consumer choice and lower prices while rejecting the anti-competitive, anti-innovative, and anti-consumer proposals of the IXCs.

Respectfully,

A handwritten signature in black ink, appearing to read "Gigi B. Sohn". The signature is fluid and cursive, with the first name "Gigi" being the most prominent.

Gigi B. Sohn
President