Brownstein | Hyatt
Farber | Schreck

December 2, 2009

VIA ELECTRONIC DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notice
In the Matter of A National Broadband Plan for Our Future
GN Docket Nos.: 09-47, 09-51, 09-137

Dear Ms. Dortch:

On December 2, 2009, the undersigned Counsel for Global Crossing Limited, together with Chris Ornelas, Of Counsel Brownstein Hyatt Farber Schreck, LLP, and Paul Kouroupas, Vice President, Regulatory Affairs, Global Crossing Limited, met with Thomas Koutsky, Kevin King and Byron Neal in the Office of Strategic Planning and Policy Analysis to discuss issues under consideration in the above-cited proceeding. Each was presented with the attached presentation.

Any questions about this matter should be directed to the undersigned.

Respectfully submitted,

Alfred E. Mottur
Counsel for Global Crossing Limited

Attachment

cc: Paul Kouroupas, Esq.

1350 I Street, NW, Suite 510 | Washington, DC 20005-3355 | 202.296.7353 *tel*
Brownstein Hyatt Farber Schreck, LLP | bhfs.com | 202.296.7009 *fax*

Global Crossing

A Global Perspective on Broadband Regulation

December 2, 2009

Global Crossing

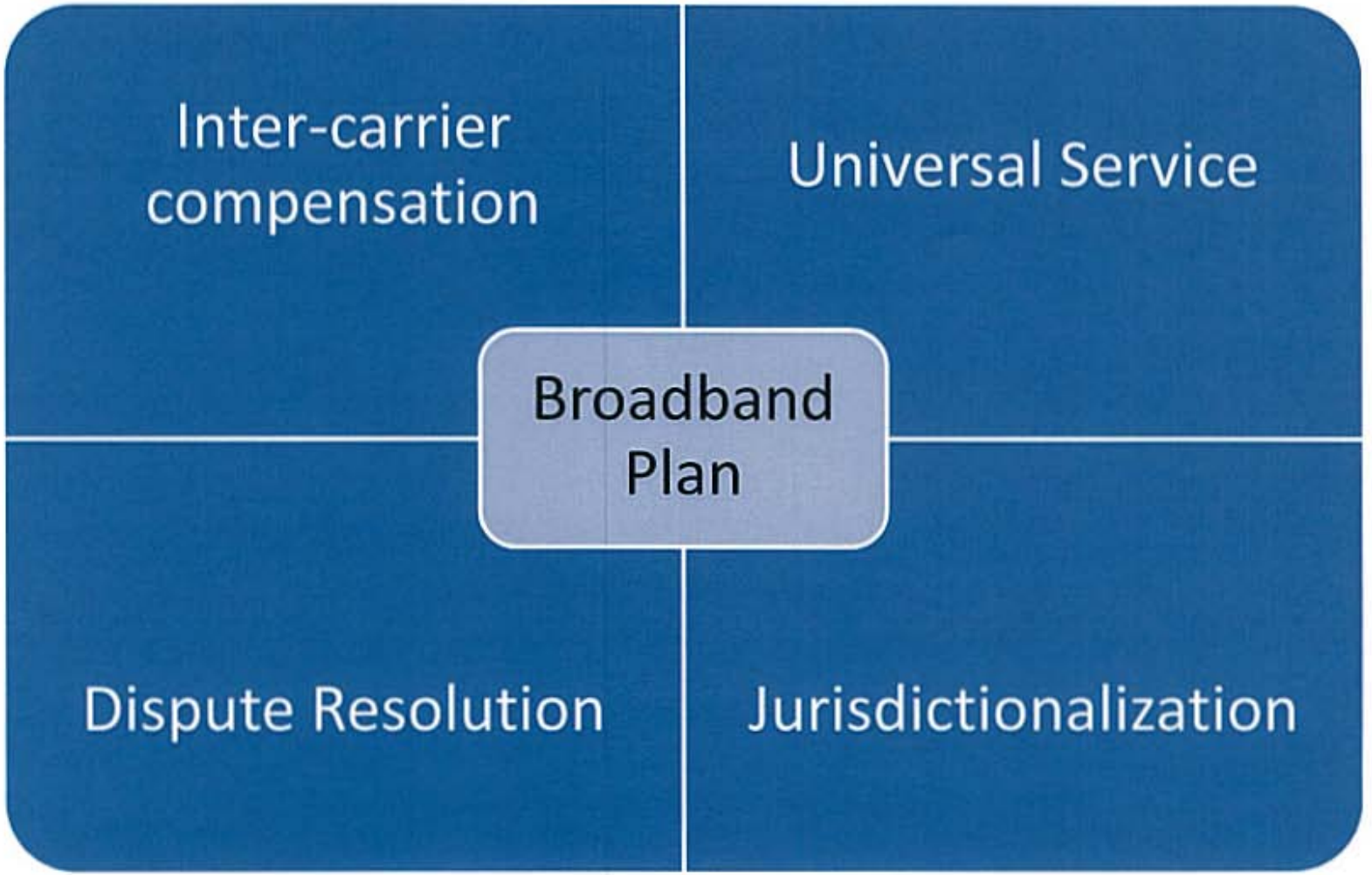
Presentation to the Federal Communications Commission

Overview

- There is a global effort to establish the appropriate regulatory framework for broadband
  - Countries that get it right will see increased investment
  - Countries that get it wrong jeopardize future economic growth

- The United States is unique in the world in several critical respects
  - The only country that jurisdictionalizes traffic
  - The only country without a unified inter-carrier compensation regime
  - The highest universal service tax
  - One of a very few countries that maintains state and federal regulation of telecommunications services
  - One of the only countries to have moved away from unbundling and cost-based pricing

Challenges


Inter-carrier compensation
Universal Service
Broadband Plan
Dispute Resolution
Jurisdictionalization

Global Survey of Current Regulation

Europe

- Unified inter-carrier compensation
- Nominal, if any, universal service tax
- Elimination of subsidies
- Aggressive price regulation of bottleneck services
- Efficient dispute resolution process
- Developing unbundling regime
- Single, independent regulator (w/EU backstop)

Asia

- Unified inter-carrier compensation
- Nominal, if any, universal service tax
- Elimination of subsidies
- Aggressive price regulation of bottleneck services
- Efficient decision-making process
- Developing unbundling regime
- Single, independent regulator

Latin America

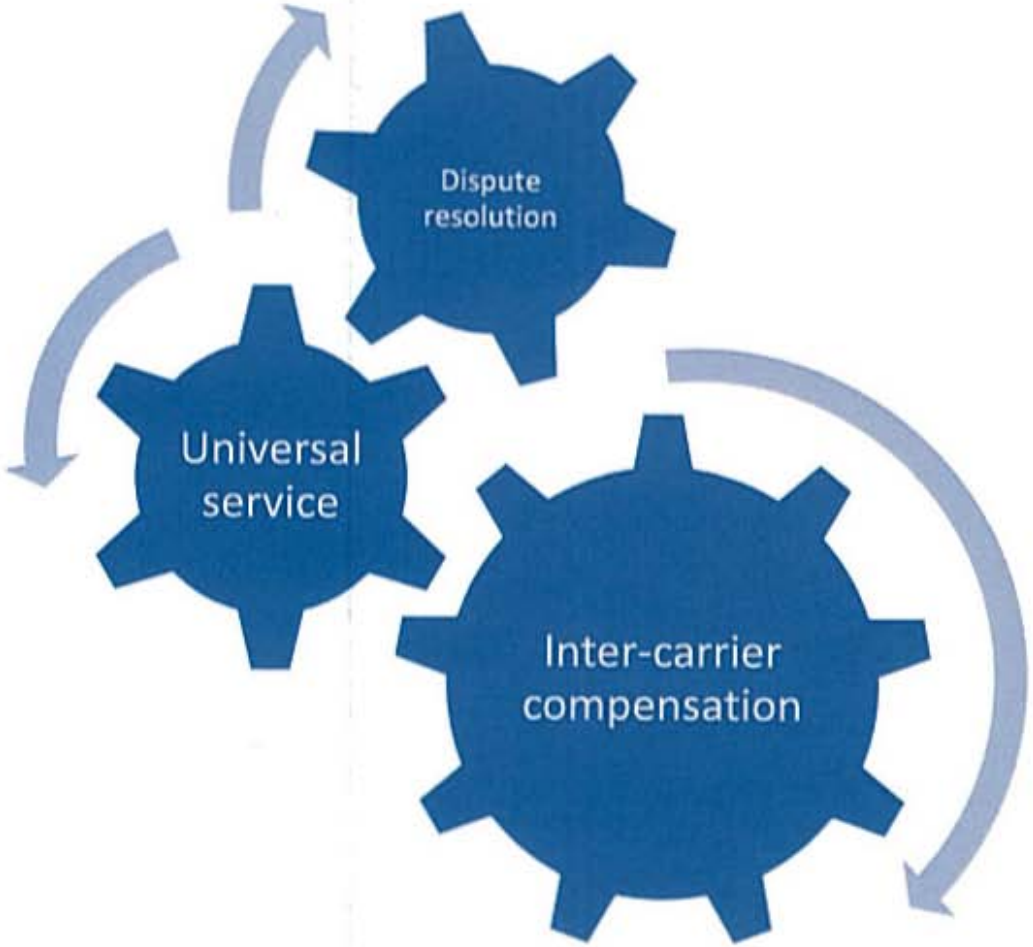
- Unified inter-carrier compensation
- Nominal, if any, universal service tax
- Price regulation of bottleneck services
- Improving decision-making and dispute resolution process
- Single regulator

Global Survey of Broadband Initiatives

Europe	Asia	Latin America
• Ladder of investment/unbundling • Uniformity of rules • Clarity of rules • Elimination of subsidies • Aggressive enforcement • Examining NGN issues • National goals	• Clear interconnection rules • Regulation of dominant providers • Elimination of subsidies • Examining NGN issues • National goals	• Delay incumbent's triple-play entry to allow market to mature and to improve incumbent's behavior in the telephony market • Simplifying licensing regime and establishing "converged" licenses • Making subsidies explicit

United States

The gears of U.S. progress have ground to a halt because of inaction on fundamental reform issues. The industry today is mired in endless litigation revolving around the proper jurisdictionalization of traffic and the impact on inter-carrier compensation and universal service.



Impact of Current Regime on Broadband

Inter-carrier Compensation	Universal Service	Dispute Resolution
• Artificially inflates the value of circuit-switched technology and delays investment in broadband and IP technology • Eliminates the economic incentive for carriers to establish more efficient traffic exchange arrangements (e.g., peering) • TDM for hand-off adds additional costs • Reform allows operators to invest in the most functional and efficient technology rather than the most subsidy-laden technology	• Subsidies increases consumer costs (currently by 12%) • Diverts resources from more productive investments • Supports 20th century technologies, services, and companies • Inhibits investment that may reduce the cost of rural service • Consumes inordinate amount of resources to administer • Allows too many "free riders" • Subsidizes a few competitors	• Lengthy dispute resolution delays market entry • Creates uncertainty in the market • Increases costs • Diminishes FCC's authority when disputes are resolved by states and courts

What the FCC Can Do

The FCC needs to issue simple, final, sustainable, and enforceable decisions in the open dockets before it

Inter-carrier Compensation Reform	Universal Service	Special Access	IP-Enabled Services
• Establish a unified rate structure • Eliminate per-minute pricing • Emulate the Internet peering and transit model • Rapid transition • The FCC's authority to act has been well defined and documented in Docket 01-92 and arguably is enhanced with broadband because jurisdictionalization becomes increasingly arbitrary in a broadband world	• Contribution base must be expanded • Jurisdictionalization of revenue must end • Contribution methodology must be simplified	• Special access facilities are essential inputs into virtually every retail service • Subsidies inherent in special access pricing have the same effect as subsidies inherent in inter-carrier compensation • Providing carriers the right to baseball-style, final offer arbitration is a market-oriented, narrowly tailored method of addressing the competing claims about the special access market that will also allow the FCC to continue to deregulate special access	• To date the FCC has only addressed the public service obligations of IP-Enabled service providers • The FCC needs to address the rights of IP-Enabled service providers • The FCC needs to establish a unified regulatory regime for IP services • The FCC's jurisdiction should end at the network • The "cure" of net neutrality is worse than the alleged "disease"

What Congress Can Do

Clarify the FCC's authority to act	Reform universal service	Re-establish anti-trust principles in telecom	Reform rights of way

• Settle disputes over the extent of its jurisdiction
• Clarify role of states
• Clarify its forbearance authority and enhance the tools available to the FCC to deregulate the market
	• Contributions to come from a tax on "devices" connected to the network
	  • Simple to administer, predictable and sustainable
	  • Accounts for all uses and users of the network
	  • Market is estimated at over $300 billion in U.S when network equipment is included
		• Create new standards in light of *Trinko* and *Linkline*
		• Create appropriate remedies (e.g., functional separation, line of business restrictions, etc.)
			• Building access
			• Sec. 253 re-write

The Broadband Report

FCC Action

- Issue decisions in long-standing dockets
- Establish swift, efficient dispute resolution

Congressional Action

- Clarify FCC authority
- Anti-trust reform
- Rights of way reform

Broadband Deployment

- A settled regulatory environment in line with the rest of the world will allow the U.S. to compete for broadband investment capital

THANK YOU

Paul Kouroupas
V.P. Regulatory Affairs
Global Crossing
973-937-024
Paul.kouroupas@globalcrossing.com