

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matters of:

International Comparisons and Consumer Survey
Requirements in the Broadband Data
Improvement Act

GN Docket No. 09-47

A National Broadband Plan for Our Future

GN Docket No. 09-51

Inquiry Concerning the Deployment of Advanced
Telecommunications Capability to All Americans
in a Reasonable and Timely Fashion, and
Possible Steps to Accelerate Such Deployment
Pursuant to Section 706 of the
Telecommunications Act of 1996, as Amended
by the Broadband Data Improvement Act

GN Docket No. 09-137

COMMENTS OF VONAGE HOLDINGS CORPORATION

NBP PUBLIC NOTICE #19

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December 7, 2009

Vonage commends the Commission for its commitment to facilitating the deployment of broadband throughout the Nation. Vonage agrees with the Commission that the Universal Service Fund can play a critical role in achieving that goal. Vonage is pleased to respond to the Commission's National Broadband Plan Notice #19 regarding how reform of universal service can "further the goal of making broadband universally available to all people of the United States."¹ Vonage's Comments respond particularly to Question 3(i), which addresses changes to ETC requirements the FCC should adopt as part of a new high-cost support mechanism for broadband.²

Response to Question 3(i): ETC Requirements

The Commission should require all recipients of high-cost broadband support to offer broadband Internet access on an unbundled, standalone basis.³ To date, the Commission has subjected broadband service to a "light[] regulatory touch" largely because it has concluded that the market for broadband in many areas is subject to "vigorous" competition.⁴ Areas that require universal service support to ensure broadband deployment, by definition, will likely not be characterized by "vigorous competition." In these circumstances, the Commission can and should require the

¹ *Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, Public Notice, GN Docket Nos. 09-47, 09-51, 09-137, DA 09-2419 (Nov. 13, 2009) ("NBP Notice #19"); *see also* American Recovery and Reinvestment Act of 2009 § 6001, Pub. L. No. 111-5, 123 Stat. 115.

² *Id.* at 4 (Question 3(i)).

³ As the Notice implicitly recognizes, imposing condition(s) on the receipt of federal subsidies is both lawful and reasonable, and specific service requirements for USF recipients have been the hallmark of the USF program since its inception. *See* 47 C.F.R. § 54.101.

⁴ *See Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, 14856 (2005).

provision of unbundled broadband to ensure that critical policy goals—including encouraging broadband adoption and ensuring that all Americans have comparable access to advanced and IP services—are met.

Imposing a standalone broadband requirement will (1) promote broadband adoption, (2) ensure that customers in high-cost areas have access to services that are comparable to those available in urban areas, (3) promote competition for advanced services, and (4) promote fairness in the universal service program overall. Where broadband service is concerned, the universal service subsidy should be focused on delivering broadband access that allows consumers to choose the communications service they want.

Standalone broadband will spur broadband adoption. Requiring carriers receiving USF support for broadband to offer standalone broadband will ensure that consumers can freely choose what communications services to purchase and can capture the savings available from competitive services like VoIP that depend on a broadband connection.

When carriers tie the purchase of broadband service to the purchase of voice service, they effectively raise the cost of broadband service, because consumers cannot choose to purchase the broadband service for a separate, lower charge. This discourages consumers from purchasing broadband unless they already wish to have voice service from the same carrier. For example, consumers who have “cut the cord” and use only wireless phones for voice calls may not want nor need landline telephone service. If consumers cannot purchase broadband service separately from voice service, they may decide that they simply cannot justify the expense of purchasing broadband service at all.

Similarly, consumers may wish to obtain voice service from a VoIP provider like Vonage, particularly if their local voice provider does not offer long-distance or international calls at no additional charge, as Vonage does.⁵ Indeed, VoIP service from Vonage or another provider might be the primary reason such consumers would be interested in getting broadband in the first place—they might believe that other Internet services, while useful, cannot alone justify the expense of the broadband connection. These consumers, too, may decide that they simply cannot justify purchasing voice service twice, once from the carrier that has tied its broadband offering to its voice service and once from Vonage. Instead, such consumers might choose to forego getting broadband at all.

Even setting aside these features of standalone VoIP service as a reason to purchase broadband, standalone VoIP providers may offer a significant savings to consumers who want a good deal on voice service. Tying eliminates the incentive for consumers to adopt broadband in order to secure such savings.

Standalone broadband ensures that telecommunications and information services in rural, high-cost areas are comparable to services available to urban consumers. Congress declared in the Telecommunications Act that “Consumers in all regions of the Nation, including ... those in rural, insular, and high cost areas, should have access to telecommunications and information services, including ... advanced telecommunications and information services, that are reasonably comparable to those

⁵ Vonage offers long-distance and international calls to more than 60 countries at no additional charge as part of its Vonage World plan \$24.99/month. *See* http://www.vonage.com/residential_calling_plans/vonage_world (visited Dec. 1, 2009).

services provided in urban areas.”⁶ Requiring carriers to provide unbundled broadband serves that goal.

In urban areas, there is often competition among broadband providers, which has led to the general availability of standalone broadband Internet access. Indeed, offering standalone broadband service is a competitive necessity in many areas, in large part because of the myriad options consumers have in urban areas for receiving voice, television, and Internet services. Forcing customers to take a service they do not want in order to get a service they do want is not a viable competitive strategy when consumers can simply go elsewhere. In rural, insular, and high-cost areas, however, there is typically less competitive pressure on service providers to offer standalone broadband Internet service. Congress has decided, however, that these consumers should be offered reasonably comparable service to consumers in urban areas. Requiring carriers receiving high-cost support to offer broadband service on an unbundled, standalone basis will support that goal.

A standalone broadband requirement not only supports the goal of offering reasonably equivalent *broadband* services, it also supports the goal of providing equivalent advanced and information services. Again, consumers who are able to purchase standalone broadband service may decide to obtain voice service from a VoIP provider. But consumers who are forced to purchase voice service as a bundle with broadband service, even though they might still be *able* to obtain voice service from a VoIP provider, can do so only by paying for voice service twice—once from their VoIP provider and once from their broadband provider. That is hardly “reasonably

⁶ 47 U.S.C. § 254(b)(3).

comparable” service “at rates that are reasonably comparable to rates” paid for equivalent services.⁷

Unbundled broadband promotes competition. Requiring unbundled broadband also promotes competition in other markets, including the market for voice services.

It is estimated that competition from standalone VoIP providers has saved consumers over \$1 billion every year in direct cost savings from consumers’ use of those VoIP services.⁸ Competition from standalone VoIP providers also generates cost savings indirectly, even for those consumers who do not use such services.⁹ For instance, it is estimated that the competitive response of traditional carriers to standalone and cable-based VoIP competition has created consumer savings well in excess of \$10 billion per year.¹⁰ Consumers’ ability to obtain unbundled broadband Internet access is a key to these consumer benefits. Where unbundled broadband service is not available, standalone VoIP service is relegated to “second line” status, and its competitive effect is greatly diminished. VoIP service over unbundled broadband also gives consumers more options regarding their wireless service. The availability of low cost VoIP services in place of traditional wireline voice service may facilitate a consumer switching entirely to

⁷ *Id.*

⁸ See Michael D. Pelcovits & Daniel E. Haar, Microeconomic Consulting & Research Associates, Inc., *Consumer Benefits from Cable-Telco Competition* at 16 (updated Nov. 2007), available at http://www.micradc.com/news/publications/pdfs/Updated_MiCRA_Report_FINAL.pdf (visited Dec. 2, 2009).

⁹ See *id.* at 19 (calculating savings of well in excess of \$10 billion per year based on the competitive response of traditional carriers to standalone and cable-based VoIP competition).

¹⁰ See *id.* at 19.

wireless and VoIP service, and it may help consumers save money by permitting them to choose a wireless plan with fewer included minutes.

In addition, competition for multichannel video programming distributors (commonly called MVPDs) from online video providers, while more nascent than VoIP competition, may have a similar effect on that market as standalone VoIP has had on the voice market.¹¹ For instance, internet video distribution from providers like Hulu, YouTube, and others could develop into low cost substitutes for MVPDs like cable and direct broadcast satellite providers. Requiring standalone broadband will provide an opportunity for these and other new services to continue to emerge and compete.

Unbundled broadband promotes fairness in the Universal Service Fund.

Requiring carriers receiving universal service support for broadband to offer broadband on an unbundled basis also promotes fairness in the Universal Service Fund. Standalone VoIP providers like Vonage contribute substantial sums to the federal Universal Service Fund but are not eligible to receive USF distributions.¹² A requirement that carriers receiving USF broadband support must make broadband available on an unbundled basis would permit standalone VoIP providers to compete for business from consumers who are benefitting from universal service subsidies. In other words, even though VoIP providers do not receive USF support directly, they could benefit by being able to compete for customers in a market expanded by the USF subsidies to which they contribute.

¹¹ See generally *Annual Assessment of the Status of Competition for the Delivery of Video Programming*, Thirteenth Annual Report, MB Docket No. 06-189, 24 FCC Rcd 542, 613 ¶¶ 150-63 (2009).

¹² See *Universal Service Contribution Methodology*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7540 ¶ 42 (2006) (establishing requirement for standalone VoIP providers to contribute to federal Universal Service Fund).

Conclusion

The Commission is right to be focused on how the Universal Service Fund can best promote broadband availability to all Americans. Requiring recipients of USF subsidies for broadband to make their broadband products available on a standalone basis will ensure that consumers—the intended beneficiaries of the Universal Service Fund—are free to choose the communications services they want. This, in turn, will drive broadband adoption, ensure rural consumers enjoy services that are reasonably comparable to those available to urban consumers, and facilitate competition in the voice and video markets. For all these reasons, the Commission should require recipients of federal broadband subsidies to offer broadband Internet access on a standalone basis.

Respectfully submitted,



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