

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

In the matter of:	)	
	)	
Comments – Public Safety and Homeland Security Bureau Seeks Comment on Whether the Commission’s Rules Concerning Disruptions to Communications Should Apply to Broadband Internet Service Providers and Interconnected Voice over Internet Protocol Service Providers	)	ET Docket No. 04-35 WC Docket No. 05-271 GN Docket No. 09-47 GN Docket No. 09-51 GN Docket No. 09-137

**COMMENTS OF LAURENCE BRETT GLASS, D/B/A LARIAT**

Laurence Brett (“Brett”) Glass, a sole proprietor doing business as LARIAT, a wireless Internet service provider serving Albany County, Wyoming, offers the following comments in response to the July 2 Public Notice of the Public Safety and Homeland Security Bureau (“Bureau”) asking whether the Commission’s rules on disruptions to communications should apply to broadband Internet service providers (ISPs).<sup>1</sup>

The Internet and its protocols, from their inception, were designed to offer “best effort,” rather than 100% reliable, delivery of data.<sup>2</sup> Due to this design characteristic, disruptions to communications over the Internet are not only normal but expected, and should not trigger a reporting requirement on the part of the ISP.

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<sup>1</sup> Public Notice, Public Safety and Homeland Security Bureau Seeks Comment on Whether the Commission’s Rules Concerning Disruptions to Communications Should Apply to Broadband Internet Service Providers and Interconnected Voice over Internet Protocol Service Providers, DA 10-1245 (July 2, 2010) (“Notice”).

<sup>2</sup> “The design principles of the Internet protocols assume that the network infrastructure is inherently unreliable at any single network element or transmission medium and that it is dynamic in terms of availability of links and nodes. No central monitoring or performance measurement facility exists that tracks or maintains the state of the network.... As a consequence of this design, the Internet Protocol only provides best effort delivery and its service can also be characterized as unreliable.” *Internet Protocol*, Wikipedia, available at [http://en.wikipedia.org/wiki/Internet\\_Protocol](http://en.wikipedia.org/wiki/Internet_Protocol).

Such requirements would be especially inappropriate for wireless Internet service providers. LARIAT, like most wireless Internet service providers (WISPs), has been unable to secure licensed radio spectrum on which to operate, and therefore operates on frequencies where unlicensed operation is permitted by Part 15 of the Commission's rules. Equipment operating on these frequencies is subject to all manner of interference from other users, both licensed and unlicensed, and the operator of such equipment has little or no recourse in the event of such interference so long as the equipment that creates it is a certified system that conforms to the Commission's regulations. For this reason, WISPs usually have no option, when faced with crippling interference, but to engineer around the problem – a process which may require costly and time consuming replacement of radio equipment and replacement or realignment of antennas. The Commission should not add to the difficulty and expense of this process by imposing reporting requirements.

Also, because the Commission itself has dictated that communications using Part 15 equipment shall be subject to disruption, and because the failure of WISPs to obtain interference-free licensed spectrum is likewise due to the design of the Commission's spectrum auctions (which do not prevent larger companies which already hold spectrum from placing pre-emptive bids so as to foreclose competition), it would not be reasonable – and would be unnecessarily burdensome – to require WISPs to report every outage or degradation of service that might result from RF interference. In fact, such a requirement could well encourage malicious parties – such as a WISP's wireless or wireline competitors – to intentionally create interference that would trigger onerous reporting obligations.

A reporting requirement would also, by increasing the regulatory and financial burdens upon ISPs, be contrary to the goals of the National Broadband Plan – particularly the deployment of high speed Internet service to unserved areas and the stimulation of competition in others.<sup>3</sup>

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<sup>3</sup> “Competition is crucial for promoting consumer welfare and spurring innovation and investment in broadband access networks. Competition provides consumers the benefits of choice, better service and lower prices.” *Connecting America: The National Broadband Plan*, FCC (March 16, 2010), available at <http://download.broadband.gov/plan/national-broadband-plan.pdf> (Broadband Plan), at 36.

Finally, it does not appear that the Commission currently has authority to impose outage reporting requirements upon broadband Internet service providers.<sup>4</sup> Even if, *arguendo*, the Commission were successful in seizing such authority by reclassifying broadband as a common carrier telecommunications service under Title II of the Telecommunications Act (a path whose success would by no means be assured), to do so would create tremendous uncertainty as to the extent of the regulation that might be imposed upon ISPs and therefore greatly discourage investment. This, in turn, would impact the aforementioned goals of the National Broadband Plan. It could also impact national security by deterring the deployment of, or making it difficult to obtain capital for, networks which could benefit public safety and/or be useful in emergencies.

For all of these reasons, LARIAT urges the Commission not to pursue the proposed reporting requirement with respect to ISPs in general and WISPs in particular.

Respectfully submitted,

Laurence Brett (“Brett”) Glass, d/b/a LARIAT  
PO Box 383  
Laramie, WY 82073-0383

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<sup>4</sup> See *Comcast v. FCC*, No. 08-1291, slip op. (DC Cir. April 6, 2010) (“Comcast v. FCC”).