

# STEPTOE & JOHNSON <sup>LLP</sup>

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May 23, 2011

Via ELECTRONIC FILING

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

Re: **Notice of Ex Parte Presentation**  
**WT Docket No. 08-7**

Dear Ms. Dortch,

This Notice of Ex Parte Presentation is being filed on behalf of Lleidanet to report that on May 20, 2011, Sisco Sapena of Lleidanet, Marc Gallardo of Alliant Abogados, and Alfred Mamlet of Steptoe & Johnson LLP, met with Nese Guendelsberger, Joel Taubenblatt, Pramesh Jobanputra and Saurbh Chhabra of the Wireless Telecommunications Bureau. The Lleidanet representatives discussed Verizon Wireless' termination of interconnection with Lleidanet and the attached Powerpoint presentation.

A copy of this Notice is being submitted to the Secretary in accordance with 47 C.F.R. § 1.1206(b). Please contact the undersigned if you have any questions regarding this Notice.

Respectfully submitted,

/s/

Alfred M. Mamlet  
*Counsel for Lleid.net*

Attachment

cc: Nese Guendelsberger  
Joel Taubenblatt  
Pramesh Jobanputra  
Saurbh Chhabra  
Sisco Sapena  
Marc Gallardo



# Lleidanet

**May 20, 2011**



# Lleidatnet Overview



- Launched in 1993
- The first telecommunications operator to focus exclusively on SMS & MMS
- Spain licensed Lleidatnet as telecommunications operator in 2003
- 700,000+ telephone numbers in Spain, UK, France and US
- ~ 1,000,000 SMS messages daily
- Own and operate worldwide SMS network interconnecting with 1400 operators in 187 countries
- In US, interconnected with AT&T, Sprint, T-Mobile and numerous other carriers



## Representative Leidanet Customers

- Operators: Movistar, Orange, Vodafone, O2, Metro PCS
- Corporate: Fiat, Lloyds Bank, Santander Group
- Consumers: 350,000 accounts in 40 countries (including US)



# Lleidanet Portfolio

## Services

- SMS international transit carrier
- ENUM number portability service

## Products

- Doctor MMS
- Virtual SMS Handset
- Certified SMS
- Certified SMS Contract



## Doctor MMS

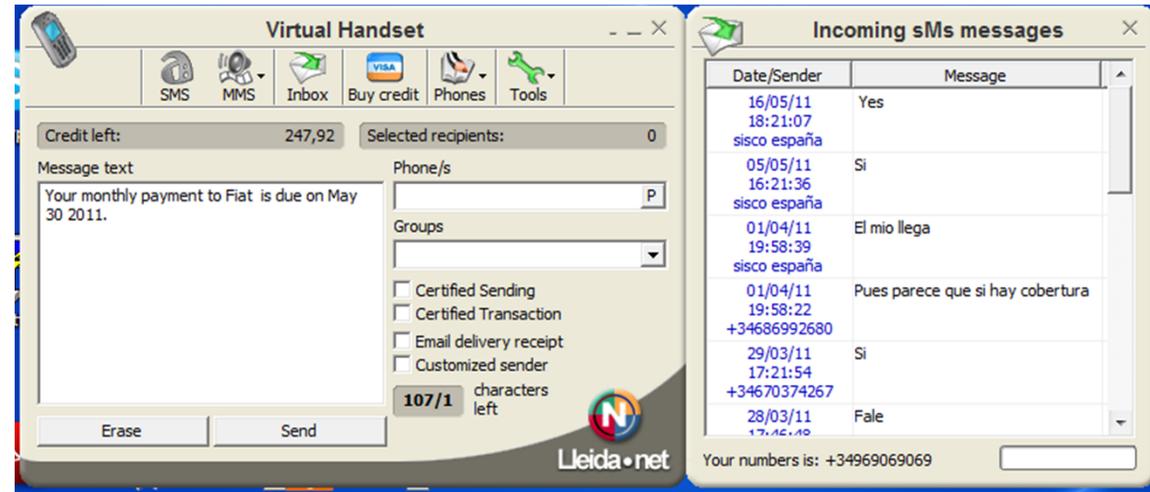
- Allows doctors to provide prompt “telemedicine” diagnosis and advice to patients in rural areas
- Lleidanet developed service in Spain, which is now also co-branded with Telefonica/Movistar





# Virtual SMS Handset

- Virtual SMS Handset is a software application for sending and receiving SMS through the Internet
- Leidanet assigns a phone number to send and receive SMS
- Virtual SMS can be easier, faster, more reliable and less expensive than mobile SMS





# Certified SMS

- SMS with a certified attachment issued by a trusted third party timestamp authority and digitally signed, proving the SMS with a specific text has been sent to a specific number
- Europe - accepted by courts
- Spain - more Lleidanet Certified SMS than certified letters likely in 2011
- India
  - 2010 statute authorizes government agencies to communicate with citizens electronically
  - Indian Ministry of Taxation asking Lleidanet to provide Certified SMS
- Fiat and Orange use Certified SMS for customer care





# Contract by SMS

- A transaction where offer and acceptance are sent by SMS
- Report is automatically generated certifying content of both messages is digitally signed by the operator and accepted as legally binding by European courts
- Madrid and Barcelona soccer/football teams use SMS Contract to resell unused seats of season ticket holders





## Privacy and Spam

- EU Electronic Commerce Directive and Spanish Law 34/2002 require prior customer relationship and opt-in consent before companies can send SMS
- Lleidanet will require US corporate customers meet the same standards



## Verizon Wireless Comments in WT Docket No. 08-7\*

The Petition focuses on why the Commission should regulate wireless text messaging as a common carrier service, but it fails to present any facts that could justify regulation of text messaging. As Section 1 of these Comments explains, **Verizon Wireless does not** block customers who subscribe to text messaging services from sending messages. Nor does it **block customers from receiving text messaging, other than by filtering unsolicited mass text messages sent by spammers**, a practice that Petitioners do not criticize. There is thus no reason for the Commission to consider the Petition with respect to text messaging at all.

\*Verizon Wireless Comments at 2 (March 14, 2008)



## Verizon Wireless Letter to Congress and FCC\*

With respect to text messaging, **Verizon Wireless does not block text messages, except those addressed to its subscribers that are captured by its spam filters, or that are affirmatively selected for blocking by its subscribers** – practices Petitioners to not complain about. There is thus no reason for the FCC to consider regulation of text messaging at all.

\*Howard Woolley, Verizon Wireless Senior Vice President, Policy & Government Affairs, Letter to Congressman DeFazio (April 22, 2008), filed by Verizon Wireless in WT Docket No. 08-7 (May 2, 2008)



## **Verizon Wireless Terminated Interconnections with Lleidanet**

- 2008 - Lleidanet Spain is interconnected with Verizon Wireless for SMS
- February 2010 - Lleidanet US is interconnected with Verizon Wireless for SMS through hubs
- October 28, 2010 – Lleidanet presents portfolio of advanced SMS to Verizon Wireless
- November 4, 2010 – Verizon Wireless terminates interconnections with Lleidanet



## SMS is a Common Carrier Service

- NARUC First Prong: Carriers offer SMS to all customers on indiscriminate basis
- NARUC Second Prong and statutory test: No net change in message content from delivery to receipt
- SMS is CMRS
  - “interconnected telecommunications service” (“capability to communicate to or receive communications from all other users on the public switched network”) - SMS users can receive communications from landline callers (e.g. phone number for return call)
  - Provided for profit
  - Available to public



## Even if SMS Were Not a Common Carrier Service, Verizon Wireless Should Not Terminate Interconnection With Another Operator

- Verizon Wireless has termination monopoly for SMS to 100 million subscribers
- Under Section 201(a), Verizon Wireless has duty to terminate traffic
- Fundamental principle that all network operators will interconnect at least indirectly with all other network operators
- FCC's *Net Neutrality Order*: "The freedom to send and receive lawful content and to use and provide applications and services without fear of blocking is essential to the Internet's openness and to competition in adjacent markets such as voice communications and video and audio programming."\*
- Even Verizon Wireless has acknowledged that "when a person accesses the Internet, he or she should be able to connect with any other person that he or she wants to – and that other person should be able to receive his or her message."\*\*

\**Preserving the Open Internet*, ¶ 62 GN Dkt No. 09-191 (December 23, 2010)

\*\*Letter from Thomas Tauke (Verizon Executive Vice President) and Alan Davidson (Google Director of Public Policy, Americas) to FCC Commissioners re Open Internet (January 14, 2010)