Arent Fox

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Stephanie A. Joyce
Attorney
202.857.6081 DIRECT
202.857.6395 FAX
joyce.stephanie@arentfox.com

VIA ECFS

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

Re: WC Docket No. 09-144, *Securus Petition for Declaratory Ruling*

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") hereby responds to the *ex parte* letter of Millicorp filed on June 17, 2011 ("Millicorp 6/17/11 Letter") in order to correct several misrepresentations. These misrepresentations appear to be the result of Millicorp's having retained new counsel, because each of them is already disproven by Securus on the record. As such, Securus will not set forth, for a fourth time, the factual and legal bases of its Petition for Declaratory Ruling ("Petition"), but rather will identify and address each of Millicorp's misrepresentations in turn.

In summary, the Millicorp 6/17/11 Letter raises almost no new fact or argument that Securus has not already addressed and disproven. Moreover, nothing in the letter refutes the conclusion that the "ConsCallHome" call diversion scheme should be prohibited from operating. Call-diversion schemes like ConsCallHome are simply dial-around arrangements that impose well-substantiated security risks, as well as an illegitimate attempt by Millicorp, and those like it, to extract money from end users via a scheme which, as these entities well know, have not been requested, invited, or approved by any law enforcement agency.[1]

Securus wishes to make clear that its Petition does not regard only Millicorp. It regards all call-diversion schemes, the trade names of which are known but the corporate provenance of which remain, with the exception of Millicorp, hidden. Petition at 11; Declaration of Robert Pickens in Support of Petition for Declaratory Ruling ¶ 15 (July 24, 2009).

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[1] Securus is aware that Millicorp recently has formed a partnership with Corrections Concepts Incorporated, and together they "will develop, manage and deploy an advanced technology Inmate Communications System" at a newly built "private/public" facility in Oklahoma. *See* http://www.voip-catalog.com/news_item1995.html. The facility is reported to be a "Christian prison" that "will employ only Christians and offer Christian programs." It will not receive funding from the Oklahoma Department of Corrections. *See* http://www.au.org/media/church-and-state/archives/2010/01/christian-prison-funding.html.

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1. "Yet Securus' and GTL's ultimate motivation for blocking calls to Millicorp's customers is financial, not security related." Millicorp 6/17/11 Letter at 2.

False. The Securus Petition makes clear that it was a law enforcement authority, the Sheriff of Lafayette County, Missouri, which brought the problem of call diversion to Securus's attention and voiced its security concerns. Petition at 2; Pickens Dec. ¶¶ 5, 10, 18. The Petition appends letters from eleven offices of County Sheriffs who likewise raised concerns about these schemes. Petition Exs. 18-28. In the teeth of this evidence, Millicorp's assertion that this issue is merely financial simply fails.

It is plain, however, that Millicorp's motivation for surreptitiously diverting inmate calls is an attempt to take payments from end users for a service that is neither invited nor accepted by any law enforcement agency.

To the extent that Millicorp or entities like it may argue that law enforcement officials are motivated to stop call-diversion schemes only in order to preserve site commission revenue, the Federal Bureau of Prisons ("FBOP") stands as a contrary example: the FBOP does not accept any form of site commissions and yet, as Securus has informed the Commission twice, it considers call diversion schemes just another form of call forwarding and blocks them. WC Docket No. 09-144, Letter from Stephanie A. Joyce to Marlene H. Dortch, Secretary, FCC, at 7 (Feb. 16, 2010) ("Securus 2/16/10 Letter"). *See* item 10 below.

In addition, the ConsCallHome scheme directly contravenes the stated inmate calling policies of at least two major correctional authorities. The Florida Department of Corrections prohibits calls to cellphones and non-attorney business lines. Millicorp, however, loudly advertises its ability to terminate calls to cellphones and to businesses, a result that violates Florida's restrictions. **See Attachment 1.** In addition, the Texas Department of Criminal Justice permits calls only within the Continental U.S. and Alaska. Under the ConsCallHome or similar call-diversion scheme, inmates easily can place international calls that violate this restriction. **See Attachment 2.**

2. "All calls by inmates to recipients using CCH are subject to the same security procedures as calls to non-CCH recipients." Millicorp 6/17/11 Letter at 5.[2]

False. As Securus has explained, the inmate's dialing of a false local telephone number absolutely precludes the Securus system from truly subjecting a ConsCallHome call to the required security review. Securus 2/16/10 Letter at 5; WC Docket No. 09-144, Letter from

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[2] *See also id*. at 10 ("ICS providers fail to acknowledge that calls to CCH subscribers are subject to the same security protocols as all other inmate calls.").

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Stephanie A. Joyce to Marlene H. Dortch, Secretary, FCC, at 5 (Dec. 14, 2009) ("Securus 12/14/09 Letter"); Petition at 14. A security check in large part regards the dialed number – if the dialed number belongs to a judge, juror, or other prohibited party, the call will be denied. In a ConsCallHome or similar call-diversion scheme, the security system has no idea what is the true terminating telephone number. As such, although the ConsCallHome call may be "subject to the same security procedures" as a legitimate inmate call, those procedures are thwarted completely and rendered useless by the inmate's entry of a false telephone number.

3. "Millicorp filed with the Commission an informal complaint against Securus and GTL … Millicorp understands that the Commission is not likely to act on this Complaint[.]" Millicorp 6/17/11 Letter at 6 n.21.

False. The Commission did, in fact, "act" on Millicorp's complaint letter. The Enforcement Bureau served a demand letter on Securus in November 2009, requesting hundreds of pages of documents as well as detailed descriptions of its actions. Securus served the Enforcement Bureau with written responses and documents on the stated deadline, and followed that production with an extensive meeting with Enforcement Bureau personnel. It is Securus's understanding that representatives of Millicorp met with Enforcement Bureau personnel several times as well.

As is typical of Enforcement Bureau proceedings, the information and documents it received from both parties is deemed confidential and is not disclosed to the public or to either side. In fact, Securus obtained a copy of Millicorp's complaint letter not from the Enforcement Bureau, but because Millicorp appended the letter to an FCC filing.

4. The [U.S. District Court] ultimately determined that the Commission was the proper venue for ruling on the issues raised in Millicorp's judicial complaint due to the pendency of Millicorp's informal complaint before the Commission." Millicorp 6/17/11 Letter at 6 n.21.

Inaccurate. The Court's decision was jurisdictional, and not merely prudential. Millicorp's civil complaint against Securus was dismissed on April 14, 2010, on the ground that the court lacked subject matter jurisdiction over the claims by virtue of 47 U.S.C. § 207, which prohibits parties from filing federal lawsuits over matters they already had brought to the Commission for resolution. Judge Donald Graham, U.S. District Court Judge for the Southern District of Florida, held that the Millicorp letter, as well as its filings in response to the Petition, "meet the requirements of an informal complaint to the FCC," and as such **"§ 207 bars Millicorp from bringing its §§ 201 and 202 claims before this Court."** Case 09-23093-CIV-GRAHAM-TORRES, Order (Apr. 14, 2010) (emphasis added).

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5. "The Commission should reject the Securus Petition because the CCH service clearly is not a dial-around service." Millicorp 6/17/11 Letter at 9.

The Petition explains in detail how the ConsCallHome scheme operates, Petition at 6-7, and Millicorp has never challenged that explanation. The core, incontrovertible fact is that the ConsCallHome scheme requires an inmate to dial a telephone number that is not the terminating telephone number, and as such it provides the same benefit as do dial-around numbers. In addition, the inmate telecommunications system never knows the actual terminating number of the inmate's call, which again is the result of using a dial-around number. Finally, the purported purpose of ConsCallHome and other diversion schemes is to obtain an allegedly lower price, which is also an advantage of dial-around services.

For all these reasons, ConsCallHome should be considered by the Commission to be a dial-around service which, as Millicorp is aware, may be blocked by inmate telecommunications service providers. *E.g*., Millicorp 6/17/11 Letter at 4; WC Docket No. 09-144, Letter from Phil Marchesiello to Marlene H. Dortch, Secretary, FCC, Attachment at slide 11 (June 13, 2011) ("Millicorp 6/13/11 Presentation") (identifying "permissible call blocking" of dial-around service).

None of the four grounds that Millicorp provides in an attempt to distinguish ConsCallHome from dial-around service are valid. Securus will address each of them in turn:

a. "First, dial around calling is a call routing service selected *by the inmate caller* by dialing an '800' or '950' access number. Yet CCH services are not available to inmates." Millicorp 6/17/11 Letter at 9 (emphasis in original).

Misleading. ConsCallHome is indeed 'available to inmates', because the scheme absolutely requires the inmate to dial the false local number that is provided by Millicorp to the called party. *E.g*., Petition at 7. The inmate is well aware of the scheme and is an active participant. And though it may be true that the inmate is not the "subscriber" to ConsCallHome, functionally the arrangement is a cooperative effort and choice by the inmate and the accountholder.

b. "Second, … a call by an inmate through an [inmate communications system] to the local telephone number of a CCH customer is terminated directly to the call recipient without providing the inmate any opportunity to input a second telephone number." Millicorp 6/17/11 Letter at 9.

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Misleading. The ConsCallHome scheme does not require the inmate or the called party to input a second telephone number, because the Voice-over-Internet-Protocol ("VoIP") device installed at or near the switch, which is located outside the prison in the Public Switched Telephone Network ("PSTN"), does the work of re-routing the inmate call to a second telephone number. It is immaterial that no individual inputs that second telephone number himself or herself.

c. "By contrast, Millicorp's CCH customers subscribe to Millicorp's service for the express purpose of *facilitating* the ability of inmates to call the customers." Millicorp 6/17/11 Letter at 9 (emphasis in original).

Irrelevant. The inmate telecommunications system cannot, as Millicorp admits, allow an inmate to call any person he or she wishes to reach. *E.g.*, Millicorp 6/17/11 Letter at 3 ("facility telephones for inmate use are programmed to block calls to protected phone numbers"). The system likewise cannot permit inmates to call every person who wishes to speak to the inmate – inmate phones are not provided for enabling inmates to conduct or facilitate unlawful activity. *E.g.*, *Smith v. Bradley*, 53 F.3d 332 (Table) (6th Cir. 1995) ("it is uncontested that the TDOC policy regarding the monitoring of telephone calls is a necessary security measure to prevent inmates' use of telephones for harassment, fraud and other illegal purposes"); *United States v. Daniels*, 902 F.2d 1238, 1245 (7th Cir. 1990) (evidence of inmate call conducting illegal activity was properly admitted).

d. "By contrast, calls to CCH's customers are initiated by inmates over an ICS provider's platform just like calls to non-CCH customers." Millicorp 6/17/11 Letter at 9.

Irrelevant. Theoretically, an 800 or 950 call would be initiated over the inmate telecommunications system as well, were the call-blocking feature not activated. There is no question here that ConsCallHome and other call-diversion schemes begin on the calling platform of the provider that lawfully won the facility contract. Rather, the issue is that ConsCallHome deliberately enables the inmate to circumvent the features of the calling platform by inputting a false local number which, he or she knows, is not the telephone number of the called party.

Millicorp's emphasis on the fact that ConsCallHome calls "are initiated … over an ICS provider's platform" does demonstrate, however, how cavalierly that company uses, free of charge, the facilities and software of legitimate inmate telecommunications service providers in order to conduct its scheme.

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In sum, Millicorp has done nothing to refute the conclusion that call-diversion schemes are a form of dial-around, and thus inmate telecommunications service providers are permitted by federal law to block them. But if call-diversion schemes are not designated as dial-around for purposes of the Securus Petition, then they must be categorized as remote call-forwarding arrangements[3] which, as Millicorp is well aware, inmate telecommunications providers are permitted to block. Millicorp 6/17/11 Letter at 12 (discussing "Securus' technology to prevent call forwarding and three-way calls").

6. "However, it is possible, if not likely, that an increase in inmate call volume enabled by the lower local rate paid to place calls to CCH customers will offset most of this revenue loss." Millicorp 6/17/11 Letter at 10.

Irrelevant and without foundation. Millicorp, having no telecommunications equipment within any correctional facility served by Securus, has no basis to surmise what are the traffic patterns of inmate calling at any jail that Securus serves. Moreover, Millicorp has no place in telling any legitimate provider of inmate telecommunications service the manner in which it can or should recover its costs. Finally, as explained by Securus herein and in the Petition, the problem of call-diversion schemes is not centered on financial matters, but rather security concerns. *See* item 1, *supra*; Petition at 6-9, 14-15.

7. "ICS providers also unfairly single out and block calls to CCH customers while permitting calls to the customers of substantially similar services such as Google Voice and Vonage." Millicorp 6/17/11 Letter at 10.

False. Securus already has explained why it does not block calls to Vonage or Google Voice, and its reasons are entirely consistent with the security issues at the heart of the Petition. "[T]he numbers Vonage assigns are registered to that end user. The number will be registered in [the Line Information Data Base] with the end user's physical address." Securus 12/14/09 Letter at 4. "Millicorp is not similarly situated to Vonage or Google Voice, and thus the manner in which Securus treats the end users of those entities has no bearing on its Petition." Securus 2/16/10 Letter at 4; *see also* items 15 and 16, *infra*.

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[3] The entity operating www.cheapinmatecalls.com in fact calls its arrangement "local phone number forwar[d]ing". Attachment 2.

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8. "If the security of inmate calls placed using existing ICS system [*sic*] is indeed a concern that needs to be addressed, the Commission should establish and enforce uniform, bright-line rules regarding when call blocking is permissible." Millicorp 6/17/11 Letter at 10-11.

Securus already has written a proposed "bright-line" rule and submitted it to the Commission in two different letters. It states:

> Inmate operator service providers (OSPs) may block attempts to use dial-around calling services or any technology, system, or service that allows the inmate to dial a telephone number different from the telephone number where the call actually terminates, or that masks or renders undetectable the actual terminating phone number of a call placed by an inmate.

Securus 2/16/10 Letter at 9; WC Docket No. 09-144, Letter from Stephanie A. Joyce to Marlene H. Dortch at 1 (Nov. 11, 2009) ("Securus 11/11/09 Letter").

9. "For example, [Global Tel*Link] pre-approves phone numbers 'manually (*i.e.*, uses human-to-human verification) to verify whether a called party is who he or she claims to be …"). Millicorp 6/17/11 Letter at 11.

Irrelevant. Although Millicorp imbues this observation with malice, the fact remains that inmate telecommunications service providers are both entitled and required to take necessary steps to preserve the security of the telephone system. *See* Petition at 2 ("inmate telephone providers must meet the penological and security needs of the correctional facilities they serve"); *Valdez v. Rosenbaum*, 302 F.3d 1039, 1045 (9th Cir. 2002) ("the prison superintendent 'may limit a prisoner's access to a telephone, except to call an attorney, if reasonable grounds exist to believe that the prisoner's use of a telephone threatens ... the protection of the public'") (quoting Alaska Admin. Code 22.05.530); *United States v. Workman*, 80 F.3d 688, 692-93 (2d Cir. 1996) (monitoring of inmate calls does not violate the Wiretap Act, 18 U.S.C. §§ 2510-2522, the Fourth Amendment, or the New York State Constitution).

Securus also notes that, whereas Millicorp appears to praise Global Tel*Link's practice as one that preserves security and thus neutralizes the risk ConsCallHome imposes, it denounces the same conduct elsewhere in the letter and in this docket. Millicorp 6/17/11 Letter at 17 ("Securus and GTL have at times required local recipients of inmate calls, many of whom are CCH customers, to provide utility bills or other proof that they reside at a local address"); Millicorp 6/13/11 Presentation at slide 5. It seems Millicorp will rely on legitimate providers'

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security efforts to justify call-diversion schemes, but will denounce those efforts when it seeks to portray these legitimate companies as villains.

10. "[T]he Federal Bureau of Prisons ('BOP') does not have a policy requiring the blocking of calls to CCH customers." Millicorp 6/17/11 Letter at 11.

False. As Securus informed the Commission in February 2010, "an employee of the FBOP … explained to [Stephanie Joyce] that ConsCallHome is, according to that agency, simply a means of effecting call forwarding. Call forwarding, he stated, is expressly prohibited by the FBOP regulations for inmate telephones which is available on the FBOP website." Securus 2/16/10 Letter at 7 (appending regulations and citing http://www.bop.gov/DataSource/execute/dsPolicyLoc). If Millicorp has been able to divert calls from FBOP facilities, its success is a function of the FBOP's inability to find the false local calls rather than any express or implied permission to use them.

11. "Securus states that accountholder information associated with a prepaid account opened with Securus by friends or families of inmates is not a reliable indicator of who is receiving calls … because Securus often does not cross check the accountholders' billing records against the Securus-registered telephone number." Millicorp 6/17/11 Letter at 11 n.29.

Misleading. Securus has provided several reasons why Millicorp is incorrect to suggest that Securus billing records are an adequate repository of the information that is needed to address security concerns. These reasons include "if the inmate has his or her own prepaid account (a calling card or debit account), which is a service that Securus has made available where feasible, then … [t]he billing address of the called party is never requested at all." Securus 12/14/09 Letter at 5-6; *see also* Securus 2/16/10 Letter at 5 ("Prepaid accounts require only the billing address of the credit card that the account holder will use to establish and/or replenish the account."). In addition, "it is common for the billing address of a prepaid account to be different from the geographic location of the terminating phone number. Often a relative establishes the account on behalf of the person who will receive inmate calls." Securus 12/14/09 Letter at 6 (citing WC Docket No. 09-144, Securus Reply Comments at 15 (Sept. 10, 2009)).

Further, it bears mention that the notion of a "Securus-registered telephone number" (Millicorp 6/17/11 Letter at 11 n.29) is a misnomer. Securus does not "register" telephone numbers. Local exchange carriers ("LECs") obtain telephone numbers from the North American Numbering Plan Administration and assign them to their local exchange customers. The numbers are then registered in LIDB, along with the LECs' Operating Carrier Number ("OCN") and other information.

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12. "Nevertheless, ICS providers do not consistently block calls to such mobile phone numbers." Millicorp 6/17/11 Letter at 12.

Irrelevant. First, most cellphone users have a registered wireless telephone number with a billing address – far more information than what Securus can obtain from a ConsCallHome user.

Secondly, many correctional authorities also prohibit calls to cellphones, including the Florida Department of Corrections ("DOC"). Securus 12/14/09 Letter at 7; *see also* item 16, *infra*. Thus, many calls to cellphones are in fact prohibited.

Third, Millicorp's repeated focus on how Securus treats calls handled by other, legitimate service providers is no answer to the fact that call diversion schemes like ConsCallHome are dangerous and are not accepted by any correctional authority with which Securus works or is familiar.

13. "Securus' technology to prevent call forwarding and three-way calls is limited to services provided by the recipient's telephone service provider. If the call recipient uses customer premises equipment to link multiple telephone lines, the three-way calling or call forwarding cannot be detected by an ICS provider." Millicorp 6/17/11 Letter at 12.

False. As Securus has stated, it "has developed a technology that can, in several different ways, detect an attempt by an inmate ***or a called party*** to forward the call or establish a three-way call." Securus 12/14/09 Letter at 8 (emphasis added). Millicorp, being neither a patent holder nor a licensor of inmate telecommunications technology, has no basis to opine that Securus is unable to detect when a called party "link[s] multiple telephone lines".

Moreover, even if Securus or any other legitimate service provider were unable to detect such improper activity by a called party, that fact would not render call-diversion schemes any more justifiable. Again, Millicorp's focus on other types of potential security breaches does not justify the actual security breach that the ConsCallHome scheme creates.

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14. "Yet CCH makes available to law enforcement an amount of information about call recipients and their locations that is equal to or greater than the information available from Vonage, Google Voice, and other IP-based telephone service providers[.]" Millicorp 6/17/11 Letter at 12-13.

Irrelevant and without foundation. First, Millicorp previously has emphasized its purported compliance with the requests of law enforcement agencies, and it cannot compare to the extensive work that Securus and other legitimate service providers do to assist officials on a daily basis. Securus Reply Comments at 15.

Secondly, Millicorp has provided scant evidence of its purported compliance: its comments on the Petition noted only "***three*** separate occasions" and appended ***two*** subpoenas. *Id*. (quoting Affidavit of Timothy Meade ¶ 18 (Aug. 27, 2009)) (emphasis added).

Third, if in fact Millicorp can or does provide information to authorities when asked, it nonetheless remains the case that every ConsCallHome call is a real-time security breach of a type that no legitimate service provider would be permitted to allow. "Authorities must know the persons whom inmates call." Petition at 3. "Capturing the actual terminating phone numbers that inmates call is the cornerstone of providing a secure calling platform." *Id*. at 14. At best, Millicorp is able to respond to written subpoenas that issue well after a call takes place.

15. "By contrast, Millicorp's CCH service matches a single local number to a single registered phone number, enabling law enforcement to easily trace inmate calls back to the called individual who subscribed to the CCH service and his or her billing address." Millicorp 6/17/11 Letter at 14.

False. As Securus has explained, "law enforcement" cannot "easily trace inmate calls back to the called individual," and that is why Securus was asked by correctional authorities to find and block call-diversion schemes in the first instance. Petition at 12 ("[t]he 'local' numbers that ConsCallHome uses are not traceable"); *id*. at 13 ("Several authorities whom Securus serves have requested that Securus take measures to prevent calls from being completed via call diversion schemes."); Pickens Dec. ¶ 18 ("We continue to investigate this problem at the request of our correctional authority clients. These clients are extremely concerned about the security breach that these call diversion schemes create.").

The names and addresses associated with telephone numbers that Millicorp gives to ConsCallHome users are not registered in LIDB. As such, "[t]he LIDB does not contain any address for the end user." Securus 12/14/09 Letter at 5; *see also* Petition at 7-8. Millicorp admits this fact; indeed, it refuses to populate LIDB. Millicorp 6/17/11 Letter at 15 & n.42.

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That deliberate refusal is not ameliorated by Millicorp's reliance on LSSi Corp., as explained in item 16 below.

16. "Millicorp directly submits its customers' identity and location information on a daily basis to … LSSi Corp. ('LSSi'). … As a result, … telephone numbers assigned by Millicorp to its CCH customers are available in most reverse directories[.]" Millicorp 6/17/11 Letter at 15.

Irrelevant. LSSi is a commercial enterprise, and one of many, that provides telephone-related data for a fee. LSSi is not sanctioned by any agency, nor is it – unlike LIDB – regulated by industry-approved standards.

LSSi and other such commercial databases do not provide real-time validation data to allow for critical screening that is necessary prior to establishing an inmate call. For example, the Florida DOC is one of several authorities that prohibit inmates from calling cellphones. The best method for detecting prohibited cellphone calls is querying the LIDB database for the carrier's OCN. The OCN will inform the system if the dialed telephone number is assigned to a cellphone carrier and, if so, a call from a Florida DOC facility to that number will be denied.

In a ConsCallHome or similar call, by contrast, a LIDB query on the false local number often will return an OCN belonging to one of the transport carriers (not a LEC or an interexchange carrier) with whom the call diverter has a service contract. Therefore, the legitimate inmate telephone service provider has no idea if true terminating number is a cellphone or not.

In fact, the ConsCallHome website states that a ConsCallHome user may terminate calls to "any active phone you currently have: home phone, **cellphone**, office phone, any active phone!" (emphasis added). Attachment 1. The *post hoc* availability of the name and address of the called party that may be in the LSSi database does nothing to prevent such prohibited cellphone calls. In fact, call-diversion schemes, such as ConsCallHome, are expressly advertising that they terminate calls to cellphones, Attachment 1, thus circumventing correctional policies that prohibit calls to cellphones.

In addition, the information LSSi provides often conflicts with the information that other, similar subscription-based services, such as AccuData and TNS, provide. LSSi thus simply cannot be considered an adequate replacement for LIDB or to be as reliable as LIDB.

Finally, Securus has researched the ability of LSSi to provide name and address information for the numbers used in call-diversion schemes. In a cooperative effort with LSSi to discover whether its service can be used for Securus's purposes, Securus submitted to LSSi

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approximately 1,000 telephone numbers known to be used for call-diversion schemes. LSSi could provide name and address information **for less than 15%** of those numbers. And, again, this search was done only after Securus had done the research necessary to discover the numbers being used for call diversion. It was not and could not have been performed in real time during the validation process.

For these reasons, Millicorp's efforts to ensure that ConsCallHome numbers "are available in most reverse directories" is not a replacement for law enforcement's need to have real-time access to registered end user information. It does not lessen the security risk of call-diversion schemes to any degree.

15. "[T]he registered physical address of Vonage's customer may not be the actual address of the customer of the location (or telephone number) where such customer [*sic*] receives inmate calls." Millicorp 6/17/11 Letter at 15 n.43.

Irrelevant. As an initial matter, it should be remembered that ConsCallHome is not "interconnected VoIP" service and thus should not be compared to Vonage. *See* item 19, *infra*. Further, Securus acknowledges that the addresses associated with terminating telephone numbers in LIDB are not always the precise location where an inmate call is taken. For example, cordless phones enable the called party to accept a call one to five miles away from the base unit.[4] The ability, however, to find the actual name and address of a called party in LIDB remains a significant tool for law enforcement in detecting and preventing unlawful activity. It is immeasurably better than not populating LIDB at all, which has been and remains Millicorp's chosen path. Millicorp 6/17/11 Letter at 15 n.42.

16. "Yet Millicorp has found that Securus blocks local telephone numbers assigned by CCH but does not block CCH-assigned long-distance telephone numbers." Millicorp 6/17/11 Letter at 16.

False and irrelevant. First, Securus already has discovered that ConsCallHome has provided non-local telephone numbers to its users, and has blocked them. Secondly, this Millicorp assertion is yet another example of its unhelpful tactic of focusing on anything but the core danger of call-diversion schemes: instructing users to enter false local numbers and diverting calls to unknown terminating numbers. Even if Securus were not taking efforts to block other forms or methods of the ConsCallHome scheme, that fact would not render its

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[4] The EnGenius DuraFon has an advertised range of 250,000 square feet or 3,000 acres. *See* <http://www.engeniustech.com/index.php/telephony/long-range-1-lineport1x/270-sp-902>.

blocking of the best-known ConsCallHome scheme – the use of false, unregistered local telephone numbers – any less necessary or appropriate.

17. "Securus recently has begun contacting recipients of local inmate calls to determine whether they are Millicorp customers … . ** [T]hese invasive calls to Millicorp's customers may be violations of Securus' statutory and regulatory obligations to protect Customer Proprietary Network Information ('CPNI')." Millicorp 6/17/11 Letter at 17 & n.47.

False. Neither inmates nor their called parties have a privacy interest in the records of their telephonic communications. *E.g.*, *Thomas v. Seth*, Case No. 08-3880, 2009 WL 692374, at *1-2 (3d Cir. Mar. 18, 2009) (provision of pretrial detainee's phone records to U.S. Attorney did not violate Privacy Act, 5 U.S.C. § 551, Stored Communications Act, 18 U.S.C. § 2701, or Wiretap Act, 18 U.S.C. § 2510); *Workman*, 80 F.3d at 694 ("'the interception of calls from inmates to noninmates does not violate the privacy rights of the noninmates'"). Securus is aware of no case, reported or unreported, applying 47 U.S.C. § 222 CPNI rights to inmates or their called parties, but fully expects that any such analysis would conclude that no violation occurred.

Moreover, Securus is not only permitted to interact with its end users but it is obligated by its contractual agreements with correctional facilities to take all necessary actions to ensure that the safety and security features of its inmate phone systems are not being circumvented. These actions include contacting called parties. Millicorp's accusation regarding this activity is baseless.

18. "[A]n ICS provider should be required to investigate 'suspect' call recipients only should be permitted to block calls … if it is not possible to identify the individual to whom a telephone number is assigned." Millicorp 6/17/11 Letter at 18.

Securus and other inmate telecommunications service providers already "investigate" calls that are "suspect" in keeping with their obligations to preserve the security of their phone systems. *E.g.*, Petition at 2-3. With respect to call-diversion schemes, Securus's investigations already have revealed that, as Millicorp postulates, it "is not possible to identify the individual to whom a telephone number is assigned." *E.g.*, *id*. at 7-8; *see also* Securus 12/14/09 Letter at 5.

The solution that Millicorp proposes here is exactly the system that is already in place and is, as Securus demonstrated, permissible under the Commission's existing dial-around and billed-party-preference exemptions for inmate telephones. *E.g.*, Petition at 5-6 (quoting *Policies and Rules Concerning Operator Service Providers*, CC Docket No. 90-313, Report and Order, FCC 91-116, 6 FCC Rcd. 2744, 2752 ¶ 15 (1991); *Billed Party Preference for InterLATA 0+*

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Calls, CC Docket No. 92-77, Second Report and Order and Order on Reconsideration, FCC 98-9, 13 FCC Rcd. 6122, 6156 ¶ 57 (1998)).

19. "Securus has repeatedly focused on Millicorp's regulatory status … The Commission should ignore this ruse. In this proceeding, Millicorp has referred to its IP communications service as an interconnected [Voice over Internet Protocol] service in an effort to respond to these unwarranted assertions by Securus." Millicorp 6/17/11 Letter at 19.[5]

False. This assertion is, at best, an example of new counsel's unfamiliarity with the record. At worst, it represents an attempt to gaslight Securus and the Commission.

In its comments to the Petition, Millicorp asserted that it is "a nationwide interconnected voice over Internet Protocol ('VOIP') provider[.]" WC Docket No. 09-144, Comments of Millicorp at 2 (Aug. 28, 2009). It ascribed this label to itself as part of its argument that it is a "legitimate" provider, *id*. at 4, and in order that it could attempt to rely on the Commission's *Madison River* decision in which a carrier was sanctioned for blocking calls to Vonage. *Id*. at 14 (citing *Madison River Communications, LLC*, File No. EB-05-IH-0110, Order (rel. Mar. 3, 2005)). The "interconnected VoIP" classification was Millicorp's own invention.

Millicorp persisted in calling itself an "interconnected VoIP" carrier through its former counsel. WC Docket No. 09-144, Letter from William P. Cox to Marlene H. Dortch, Secretary, FCC, at 1 (Dec. 11, 2009); Letter from William P. Cox to Marlene H. Dortch, Secretary, FCC, at 1 (Dec. 16, 2009).

Securus was thus constrained to continue addressing, and refuting, Millicorp's purported "interconnected VoIP" status as long as those efforts continued. For Millicorp to purport that Securus manufactured this issue as a "ruse" displays a gross lack of candor. If, as it appears now, Millicorp is abandoning that argument, then Securus need not explain a third time why ConsCallHome is not a form of interconnected VoIP service.

This issue is also irrelevant. Even if ConsCallHome is deemed to be "interconnected VoIP" service, its diversion of traffic from correctional facilities would be dangerous and improper. As the Commission is aware, inmate telecommunications service is provided pursuant

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[5] *See also id*. at 20 ("It is telling that ICS providers only focus on the regulatory categorization of Millicorp's justification for blocking calls to CCH subscribers, but ignore the identical issue with regard to Vonage and Google Voice services."). Securus has discussed Vonage and Google Voice directly in this docket. Securus 2/16/10 Letter at 4-5; Securus 12/14/09 Letter at 4-5.

to exclusive public contract: "This approach appears to recognize the special security requirements applicable to inmate calls." *Billed Party Preference Order*, 13 FCC Rcd. at 6156 ¶ 57. Millicorp is inserting itself – without making itself known – into the service that Securus and other legitimate carriers pursuant to the public contracts they were awarded. Millicorp has no right to interfere with these contracts, regardless of the regulatory classification it assumes.

Finally, to the extent that Millicorp discusses its VoIP technology as a new or unique way to lower the cost of inmate telecommunications service, it bears mention that Securus has been a pioneer in the use of VoIP technology in this market. The Securus Secure Calling Network uses VoIP technology exclusively from the inmate phone to the Securus centralized call platform, and was introduced in December 2005.

20. "[T]o the extent that Millicorp's customers connect a Millicorp-provided [Standard Internet Protocol] adapter … to their existing broadband service, they can receive and place calls over the public switched telephone network using Millicorp's service." Millicorp 6/17/11 Letter at 19.

The exception under which a few Millicorp customers may be able to place calls on the PSTN via a SIP adapter only proves the general fact that the vast majority of Millicorp customers cannot do so. As such, the ConsCallHome arrangement fails the fourth criterion of 47 C.F.R. § 9.3, in addition to the second criterion ("requires a broadband connection") and third criterion ("requires Internet-protocol compatible … CPE").

21. "It is telling that ICS providers only focus on the regulatory categorization of Millicorp's justification for blocking calls to CCH subscribers, but ignore the identical issue with regard to Vonage and Google Voice services." Millicorp 6/17/11 Letter at 20.

False. Securus has not "ignored" Vonage or Google Voice in this proceeding. Securus has explained why it does not block calls to end users of those services. Securus 2/16/10 Letter at 4-5; Securus 12/14/09 Letter at 4-5. Those services do not pose the security risk that call-diversion schemes pose. *Id.*; *see also supra* item 7.

22. "For many families, phone calls are the only way to keep in touch with their imprisoned loved one." Millicorp 6/17/11 Letter at 21.

Securus is a leading provider of telephone service to inmates and their called parties, and has established several means by which inmates can call loved ones, including by making billing

arrangements with LECs for collect calling, establishing inmate prepaid and called-party prepaid accounts, and creating called-party post-paid accounts. *E.g.*, Securus 12/14/09 Letter at 5; Securus Reply Comments at 15.

23. "One crime that is undoubtedly amplified by excessive ICS rates is the smuggling of contraband cellphones in prisons. … Following this logic, lawmakers in Texas recently concluded that increased access to prison phones would cut down on the prevalence of illicit cellphones ... and therefore expanded access to prison phones." Millicorp 6/17/11 Letter at 22.

Misleading. The smuggling of cellphones into correctional facilities is not for the purpose of obtaining cheaper calls. That conclusion is evident from the amount of money that inmates will pay for illicit cellphones. In 2006, smuggling a cellphone into the New Jersey State Prison apparently required **a $500 bribe** to a corrupt correctional officer. "Inmates Smuggle in Cell Phones With Ease," National Public Radio (Oct. 12, 2006), *available at* http://www.npr.org/templates/story/story.php?storyId=6248833. In Texas, an inmate's mother recently has been convicted for smuggling cellphones into a Texas prison, apparently in exchange for **$16,000**, most of which was used to bribe officers. "Inmate's Mother Convicted For Cellphone Smuggling", MeshDetect Blog, *available at* http://prisoncellphones.com/blog/2011/06/13/inmates-mother-convicted-for-cell-phone-smuggling. Plainly, money is not the issue.

Moreover, a desire to obtain lower phone rates is not an excuse for illegal activity, be it smuggling cellphones or using an illicit call-diversion scheme.

Securus has provided the Commission with considerable data regarding the cost of providing inmate telecommunications service in WC Docket No. 96-128 in response to the several Petitions for Declaratory Ruling of Martha Wright. Securus has noted that in many instances, its use of VoIP technology, combined with the high call volumes that are prevalent at large facilities, enable long-distance rates as low as $0.04 per minute, with a $1.20 per-call charge, from facilities such as those operated by the Florida DOC. Rates are only $0.10 per minute, with a $0.50 per-call charge, at the Santa Fe County facility in New Mexico.[6]

Finally, it bears mention that Millicorp's own billing practices require "subscribers" to provide an automatic debit card and authorize automatic, monthly pre-payment of $9.90 to $18.90, and, despite statements in the record by dozens of law enforcement officials to the

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[6] Securus notes that call rates are a function of the particular cost and call volume structure of each facility, and thus rates do vary as between facilities.

Arent Fox

contrary,[7] Millicorp represents to the public that its service "works with" state, county, and local jails. **See Attachments 3 and 4.**

* * * *

Please do not hesitate to contact me with any additional questions or concerns: 202.857.6081. Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce

Counsel for Securus Technologies, Inc.

cc: Chairman Julius Genachowski (*via electronic mail*)
Commissioner Michael Copps (*via electronic mail*)
Commissioner Robert McDowell (*via electronic mail*)
Commissioner Meredith Attwell Baker (*via electronic mail*)
Commissioner Mignon Clyburn (*via electronic mail*)
Sharon Gillett, Chief, Wireline Competition Bureau (*via electronic mail*)
Austin Schlick, General Counsel (*via electronic mail*)
Zachary Katz, Legal Advisor to Chairman Genachowski (*via electronic mail*)
Margaret McCarthy, Policy Advisor to Commissioner Copps (*via electronic mail*)
Christine Kurth, Legal Advisor to Commissioner McDowell (*via electronic mail*)
Christi Shewman, Legal Advisor to Commissioner Baker (*via electronic mail*)
Angela Kronenberg, Acting Legal Advisor to Commissioner Clyburn (*via electronic mail*)
Albert Lewis, Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Julie Veach, Associate General Counsel (*via electronic mail*)
Diane Griffin Holland, Assistant General Counsel (*via electronic mail*)
Trent Harkrader, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau (*via electronic mail*)
Marcus Maher, Legal Advisor to Chief of the Wireline Competition Bureau (*via electronic mail*)
Pamela Arluk, Assistant Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)

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[7] Petition at 13; Securus Reply Comments, Appendix.

Arent Fox

Lynne Hewitt Engledow, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Michelle Berlove, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Jennifer Prime, Acting Legal Advisor, Office of the Bureau Chief, Wireline Competition Bureau (*via electronic mail*)
Chin Yoo, Investigations and Hearings Division, Enforcement Bureau (*via electronic mail*)

ATTACHMENT 1

Frequent Questions

On this page you will find the answers to some of the most commonly asked questions about our products and services. If you have a question about ConsCallHome.com or its services please take the time to review the information below. If you find your question is unanswered please do not hesitate to contact us at **888-524-6151** or via our support page **here**.

Q. What is a ConsCallHome Direct Line and how does it work?

Q. How does ConsCallHome save me money?

Q. Can I place my order over the phone?

Q. Why does my inmate need a ConsCallHome Direct Line anyway?

Q. Why do I need a local phone number to the prison?

Q. If my inmate uses ConsCallHome, will it violate the prison rules or polices?

Q. How much will I save if my calls are coming from a state prison, or a local jail?

Q. What are the benefits of the ConsCallHome Direct Line for the inmate?

Q. What do you mean by "destination"?

Q. Can I use a ConsCallHome Direct Line with my current home phone? Cell phone? Office phone?

A. Yes you can! ConsCallHome can use any active phone you currently have: home phone, cell phone, office phone, any active phone! You do not have to buy a new phone nor any hardware to have a ConsCallHome Direct Line, so the savings start with the very first call!

Q. What is the Millicorp SIP Adapter?

Q. What is "RingAround"?

Q. Can I use my Millicorp SIP adapter and surf the web at the same time?

Q. Do I need a broadband connection to use the Millicorp SIP Device?

Q. What does a ConsCallHome Direct Line Cost?

Q. Is your service allowed to be used at a Federal prison?

Q. Does ConsCallHome work with state prisons?

Q. Does ConsCallHome work with city and county jails?

Q. I purchased a cell phone with a local number to the prison and my inmate was still charged long distance rates. How does ConsCallHome guarantee local calling rates with the Bureau of Prisons?

Q. How and when will my credit card be charged?

Q. Can I add additional ConsCallHome Direct Lines?

Q. How do I add more minutes to my ConsCallHome Account?

Q. How much do I save if my inmate is in a Federal prison?

Q. What is Auto-Recharge and why do I want to use it?

Q. Why is there a monthly fee for the ConsCallHome Direct Line even if my inmate doesn't make any phone calls that month?

Q. I do not live in the United States. Will a ConsCallHome Direct Line help my inmate save money with calls to other countries?

Q. What if my home phone service and/or home number changes? Can I have an established ConsCallHome Direct Line changed to ring on my new phone?

Q. Why must you know where my inmate is located?

Q. What about the privacy of my information?

Q. Why is there a "security" question when I sign up?

Q. What does "back order" mean concerning my new direct line?

Q. What does "not available" mean concerning my new Direct Line?

Q. How do I cancel my ConsCallHome Account?

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ATTACHMENT 2

CheapInmateCalls
Reduce the cost of your calls from prison

Serving federal, state, country and local facilities nationwide

Call Us Today at 501-205-5586 Account Login

Home About Us How it Works Frequent Questions Contact Us Testimonials Sign Up

Pay only $59.99 for 12 month! That's only $4.99 per month!

Sign Up Now

Frequently Asked Questions

Top Questions

1. How it works?
2. How does CheapInmateCalls save me money?
3. Can I place my order over the phone?
4. Why do I need a local phone number to the prison?
5. If my inmate uses your services, will it violate the prison rules or policies?
6. How much will I save if my calls are coming from a state prison, or a local jail?
7. What do you mean by destination?
8. How much does you service cost?
9. Can I use your service with my current home phone? Cell Phone? Office phone ?
10. Is your service alloed to be used at a Federal prison?
11. Is your service work with state prisons?
12. Is your service work with city and country jails?
13. I purchased a cell phone with a local number to the prison and my inmate was still charged long distance rates. How does CheapInmateCalls guarantee local calling rates with the Bureau of Prisons?

"Thank you Cheap Inmate Calls you make it possible for my son to call everyday. without your service he would no be able to. My grandson is now in jail and he can use this also. It makes it easier for our

I do not live in the United States. Will a CheapInmateCalls help my inmate save money with calls to other countries?

Of course! It may help you more than someone who lives in the US! Most prisons charge a huge amount to make long distance calls to other countries. CheapInmateCalls is dedicated to providing cost savings to all our clients as much as 80%! The local phone number forwaring only works for US and Canada, however we will ship you a USB device which you will need to install on your computer. You should be able to recieve incomming calls anywhere in the world!

Why must you know where my inmate is located?

This is a very important question. To properly issue your a local phone number that will save as much money as possible, it is vital that we know the correct location for each inmate. Our service works by making sure that each inmate is dialing a local call to their particular prison. The only way to be sure of this is to have an accurate location for them.

What about the privacy of my information?

We do not share or sell your information with any one in any way. We consider the privacy of our subscribers and users to be our top concern and priority.

General Questions

Question

Answer. Answer. Answer. Answer. Answer. Answer. Answer.

Question

Answer. Answer. Answer. Answer. Answer. Answer. Answer.

ATTACHMENT 3

Frequent Questions

On this page you will find the answers to some of the most commonly asked questions about our products and services. If you have a question about ConsCallHome.com or its services please take the time to review the information below. If you find your question is unanswered please do not hesitate to contact us at **888-524-6151** or via our support page **here**.

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Q. Why do I need a local phone number to the prison?

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Q. How much will I save if my calls are coming from a state prison, or a local jail?

Q. What are the benefits of the ConsCallHome Direct Line for the inmate?

Q. What do you mean by "destination"?

Q. Can I use a ConsCallHome Direct Line with my current home phone? Cell phone? Office phone?

Q. What is the Millicorp SIP Adapter?

Q. What is "RingAround"?

Q. Can I use my Millicorp SIP adapter and surf the web at the same time?

Q. Do I need a broadband connection to use the Millicorp SIP Device?

Q. What does a ConsCallHome Direct Line Cost?

Q. Is your service allowed to be used at a Federal prison?

Q. Does ConsCallHome work with state prisons?

A. Yes it does. It was designed to work with any phone system which will give a price break for local versus long distance calls. If the prison requires collect calls it will be necessary to setup a pre-paid account with the prison phone provider, but we have found that in most cases you will still receive a large discount from those providers because now your inmate is using a local phone number to call you!

Q. Does ConsCallHome work with city and county jails?

Q. I purchased a cell phone with a local number to the prison and my inmate was still charged long distance rates. How does ConsCallHome guarantee local calling rates with the Bureau of Prisons?

Q. How and when will my credit card be charged?

Q. Can I add additional ConsCallHome Direct Lines?

Q. How do I add more minutes to my ConsCallHome Account?

Q. How much do I save if my inmate is in a Federal prison?

Q. What is Auto-Recharge and why do I want to use it?

Q. Why is there a monthly fee for the ConsCallHome Direct Line even if my inmate doesn't make any phone calls that month?

Q. I do not live in the United States. Will a ConsCallHome Direct Line help my inmate save money with calls to other countries?

Q. What if my home phone service and/or home number changes? Can I have an established ConsCallHome Direct Line changed to ring on my new phone?

Q. Why must you know where my inmate is located?

Q. What about the privacy of my information?

Q. Why is there a "security" question when I sign up?

Q. What does "back order" mean concerning my new direct line?

Q. What does "not available" mean concerning my new Direct Line?

Q. How do I cancel my ConsCallHome Account?

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ATTACHMENT 4

Frequent Questions

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Q. What does a ConsCallHome Direct Line Cost?

Q. Is your service allowed to be used at a Federal prison?

Q. Does ConsCallHome work with state prisons?

Q. Does ConsCallHome work with city and county jails?

A. Yes it can. Our service works by providing a local phone number to the jail. If you are already a local call to the jail, then it is doubtful that we will be able to save you any on your calls. We have discovered that if you are more than 15-20 miles away from the jail, a local phone number can help, and we will save you money on your calls!

Q. I purchased a cell phone with a local number to the prison and my inmate was still charged long distance rates. How does ConsCallHome guarantee local calling rates with the Bureau of Prisons?

Q. How and when will my credit card be charged?

Q. Can I add additional ConsCallHome Direct Lines?

Q. How do I add more minutes to my ConsCallHome Account?

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