



September 9, 2011

**Via ECFS**

Marlene H. Dortch, Secretary  
 Federal Communications Commission  
 445 Twelfth Street, SW  
 Washington, DC 20554

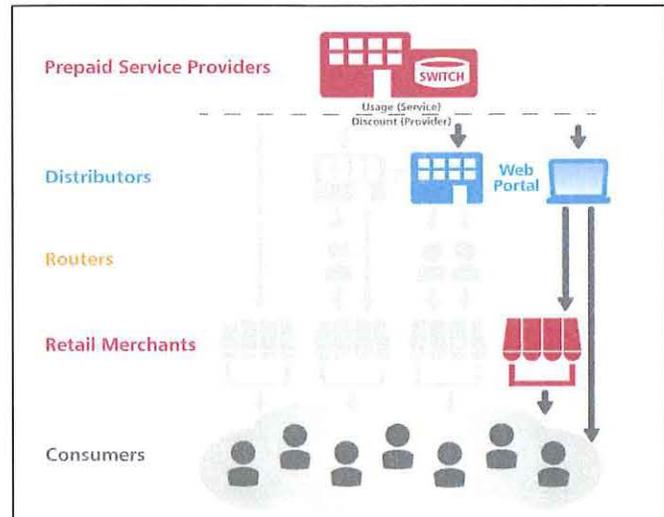
Re: Notice of ex parte presentation – WC Docket No. 06-122

Dear Ms. Dortch:

On September 7<sup>th</sup>, 2011, Network Enhanced Telecom, LLP (“NetworkIP”) held an ex parte meeting via teleconference with staff from the Commission’s Wireline Competition Bureau, Telecommunications Policy Division (“TAPD”), to discuss issues in the above-referenced docket. NetworkIP was represented by myself; Toni Van Burkleeo, Chief Financial Officer; and L. Charles Keller, outside counsel from Wilkinson Barker Knauer, LLP. TAPD staff on the call were Vickie Robinson, Deputy Chief; Claudia Fox; Carol Pomponio; Ernesto Beckford; and Chin Yoo.

On the conference call, NetworkIP described two developments in the prepaid calling market that present additional challenges to the Commission’s current universal service contribution methodology:

- 1) Web based Retail PINless Portals (“Retail Portals”) are quickly growing in the market place, now accounting for more than 20% of Revenue in some of the biggest prepaid Calling Card service providers.<sup>1</sup> These portals are setup in convenience stores, and allow store clerks to sell variable or set amounts of prepaid calling to consumers. The consumer provides his or her telephone number, and the inbound ANI or MIN, is then used to validate calls made using the service. NetworkIP has already



witnessed almost 100% conversion in one of its clients from hard cards to Retail Portal in the last 18 months. All industry indicators show this trend continuing and gaining momentum in the future. The growth of Retail Portal prepaid calling challenges the existing contribution system in a number of ways.

- a. Retail Portal providers may be unaware of the contribution requirements, or may have little incentive to comply.

<sup>1</sup> We discussed these portals in our White Paper, filed Sept. 28, 2010, at 1-2.

- i. The use of Retail Portals reduces the barrier to entry even more than traditional prepaid calling cards.
  - ii. We fear this will result in some Retail Portal providers believing they can provide service without detection. Providers could utilize local or toll free access numbers (often available at less than a penny per minute), combined with VOIP access directly to carriers outside the U.S., making it next to impossible to identify or track.
  - iii. Since there is no physical card or product, it will be very difficult to trace back to companies or individuals offering this service. Companies could easily change web site URL's and leave very little evidence of their existence.
  - iv. Retail Portal providers could easily fly under the radar for USF and TRS fees since only very low cost toll free or local access could be tracked using existing USF enforcement methodology; VOIP-based international routing would not be apparent.
- b. It is highly likely, some of these Retail Portal providers will certainly latch onto any loophole to claim they are not required to file or contribute. Potential loopholes exist in the current Form 499-A Instructions.
- i. The current (2010) instructions, p. 14, define "prepaid card" this way:

"Prepaid Card -- provides prepaid calling card services by selling prepaid calling cards to the public, to distributors or to retailers. Prepaid card providers provide consumers the ability to place long distance calls without pre-subscribing to an interexchange carrier or using a credit card. Prepaid card providers typically resell the toll service of other carriers and determine the price of the service by setting the price of the card, assigning personal identification numbers (PINs) and controlling the number of minutes that the card can be used for. Companies that do not assign PINs but rather sell cards created by others are marketing agents and do not file."



- ii. In addition, p. 27 states: "Prepaid card includes prepaid service where the customer utilizes the service provider's switching platform and a personal identification number (PIN) for purposes of verification and billing, even if the customer does not receive a physical card."

- iii. Retail Portal providers may attempt to justify their position as a non-contributor since they do not assign a PIN or that there is no concept of PIN since their service offering is PINless. (The consumer's actual ANI serves to validate outbound calls, eliminating the need for a traditional PIN.)
- 2) International wireless providers have been offering consumers in the U.S. the opportunity to "top-up" their family and friend's foreign cell phone accounts from kiosks, convenience stores, and the retail portals accessible in the U.S. Recently these international top-up services have started to replace the Retail Portals international long distance calling to other countries (i.e., Mexico, Honduras, Guatemala, etc.) that otherwise would have been subject to assessment for TRS, and other fees. Due to high cell phone termination rates being charged by these foreign countries and carriers, inbound calls from these countries to the U.S. are now often cheaper than U.S. originated calls to these countries. Consumers in the U.S. therefore find it more economical to use these top-up services to pay for their family and friends to call them in lieu of placing international long distance calls themselves. It's hard to determine the true impact of this phenomenon at this time, but we have clients who claim same-store sales of prepaid outbound calling products drop by as much as 40% when the Top-up product is added to an existing Retail Portal.

Examples of some Retail Portal offerings in the market place:

[www.bossrevolution.com](http://www.bossrevolution.com) (click on the "How does it work" link on the left side of page)

[www.hellochoice.com](http://www.hellochoice.com) (check out video under "How To" tab)

[www.myblack011.com](http://www.myblack011.com)

[www.homiesnomas.com](http://www.homiesnomas.com) (check out videos under "additional resources")

[www.dollarphonepinless.com](http://www.dollarphonepinless.com)

[www.pinlessmax.com](http://www.pinlessmax.com)

Consistent with its earlier filings in this docket, NetworkIP urges the Commission to take action without further delay to address the significant disconnects between the rapidly evolving telecommunications marketplace and the archaic universal service contribution methodology.

Sincerely,



Pete Pattullo  
Chief Executive Officer

cc: FCC attendees (via email)