



October 18, 2013

Ex Parte Notice

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

Re: *In the Matter of Rural Call Completion, WC Docket No. 13-39*

Dear Ms. Dortch:

On Friday, September 27, 2013, I met with Nicholas Delgani, advisor to Commissioner Ajit Pai and Michael Williams, a law clerk with the office, to discuss the above-referenced matter. We talked about the substance of rules that could help address data collection efforts to help resolve rural call completion problems.

It is NTCA – the Rural Broadband Association’s (“NTCA’s”) position that the Commission should adopt no safe harbors at this time that would permit a carrier to avoid an obligation to gather and then report on its call completion data. There is no concrete evidence (at least in the public record) that any safe harbors are appropriate or that certifying to one would address call completion issues. To be clear, NTCA is not opposed to safe harbors as a pragmatic matter, but they should be “earned.” That is, if after a period of collecting data the Commission determines empirically on a public record that certain practices help ensure that rural calls complete, a safe harbor could perhaps be permitted based specifically on that evidence.

We discussed a safe harbor that would require carriers to retain data for several months, but to avoid the reporting requirements, if the carrier limited the number of intermediate providers in every call completion path to no more than two. NTCA reiterated its position that safe harbors are inappropriate, but emphasized that if such a safe harbor were adopted, the Commission must not create a large and amorphous loophole that would undercut any rules adopted in this proceeding. In particular, if such a safe harbor were adopted, it is essential to define carefully and objectively the qualifications for it, so that carriers and providers could not “self-define” their way into qualification. As just one example, if the transport provided by a so-called “Tandem Provider” were to be excluded as a counted intermediate provider (such that the Tandem Provider would not be counted as an additional “hop” for purposes of qualifying or not for the safe harbor), it is imperative that “Tandem Provider” be specifically defined as follows:

- 1) A Tandem Provider must only perform a tandem switching function between points that are *not* chosen by the Tandem Provider. If a given Tandem Provider provisions or otherwise performs any transport function or has any decision-making capability in connection with call routing, it may not be excluded from the intermediate provider count and will instead count as an intermediate provider;
- 2) A Tandem Provider must be a Telephone Company or centralized equal access provider switching system that provides a concentration and distribution function for originating or terminating traffic between Local Exchange Carrier (“LEC”) end offices and the customer designated premises of the long distance provider or its underlying carrier; and
- 3) A Tandem Provider must be listed expressly in the Local Exchange Routing Guide (“LERG”) as owning and operating a tandem switch and must have a LERG-defined homing arrangement with the originating or terminating LEC in the specific call flow.

NTCA further stressed that rural AND urban call completion rates should be captured in connection with any new rules. The Commission and others must have the ability to compare an individual carrier’s rural and urban data to determine if there is a discrepancy and potential discrimination. It was pointed out that carriers already capture all of the data sought for a variety of other purposes (*e.g.*, billing and verification) and thus the additional cost of storing data already collected is minimal.

Addressing the issue of whether autodialed numbers should be excluded from reporting, NTCA observed that there is no evidence in the record that autodialing affects rural call performance differently than urban call performance. Similarly, there is no evidence whatsoever that cause release codes are inaccurate more often in a rural setting than in an urban one. NTCA suggested the Commission collect all of the data as an initial matter, and then consider whether and to what degree to address autodialing and inaccurate cause codes as a separate matter in a further notice of proposed rulemaking.

NTCA also asked that a further notice of proposed rulemaking ask questions about the treatment of intermediate providers, and whether specifically they should be required to register with the Commission and held to quality standards to help shed greater light on this critical, but opaque, market. NTCA also requested that the Commission create and retain a carrier contact list for call completion problems and that the consumer complaint form be simplified.

Finally, NTCA stressed that all data reported to the Commission should be made publicly available. For example, state commissions need access to the data to make determinations about carriers’ performance in their states, and the public and other carriers in the industry would benefit from disclosure so that they can make informed decisions when choosing providers. There is simply no concern with respect to confidentiality or other proprietary issue whatsoever in connection with releasing publicly the aggregated performance of each reporting carrier or provider as contemplated in the Commission’s notice of proposed rulemaking.

Marlene H. Dortch
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Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. Due to the shutdown of the Federal Government and in accordance with the Commission's Public Notice released October 17, 2013, this letter is being filed today rather than on October 1, 2013 as originally intended. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Jill Canfield

Jill Canfield

Director of Legal and Industry,
Assistant General Counsel

cc: Nicholas Delgani
Michael Williams