



take appropriate action in cases where carriers or other providers are *not* complying with applicable law.”<sup>3</sup> Imposing additional requirements, on the other hand, would certainly increase compliance costs among intermediate providers, and would moreover, depending on how such requirements were structured, create a potential trap for the unwary who could become subject to penalties not for any failure to perform adequately, but rather simply for failing to make or obtain the required certifications.<sup>4</sup>

Although some commenters urged the Commission to adopt a variety of registration or certification proposals, those proposals generally failed to identify what benefit the favored regime would provide or to grapple with the costs and burdens they would impose.

NARUC, for example, urges the Commission to “require each intermediate provider to certify that its business practices conform to the same standards and (State and federal) rules for call routing as covered providers.”<sup>5</sup> While Level 3 agrees with NARUC (and with the Commission) that intermediate providers are frequently the cause of call completion problems, NARUC offers no explanation of how its proposed certification requirement might help address that problem.<sup>6</sup> On the other hand, the NARUC proposal would create a significant amount of paperwork and a corresponding amount of work for Commission (and possibly state commission) staff to manage the certification process. Instead, regulatory resources would be better spent actually investigating call completion problems and taking appropriate enforcement action.

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<sup>3</sup> Comments of Level 3, WC Docket No.13-39, at 4-5 (filed Jan. 16, 2014).

<sup>4</sup> *See id.* at 5.

<sup>5</sup> Comments of the National Association of Regulatory Utility Commissioners, WC Docket No. 13-39, at 6 (filed Jan. 16, 2014) (NARUC Comments).

<sup>6</sup> *See also* Comments of the Idaho Telecom Alliance, et al., WC Docket No. 13-39 at 4 (filed Jan. 16, 2014) (observing that intermediate providers are a frequent source of call completion problems and asserting that “[a]ny step to bring intermediate providers in to compliance and to be responsible for their actions is a good step forward”) (emphasis added).

NARUC also proposes that the Commission “establish a federal *Intermediate Provider Registry* that contains a designated point of contact for each listed and defined geographical area where the carrier provides intermediary services to facilitate FCC and State investigations of call completion issues.”<sup>7</sup> This proposal, too, appears likely to do little other than to create regulatory busywork. When state or federal authorities are investigating a call completion problem, they will undoubtedly be working with either a terminating carrier or an originating carrier, if not both. Those carriers will have contact information for the entities to whom and from whom they receive traffic (and those, in turn, will have such information for the next step in a call flow), and that information is almost certainly going to be more reliable than any data that might reside in a centralized repository that may not be updated reliably.

ANPI, too, proposes a regime of certification that suffers similar flaws.<sup>8</sup> Specifically, ANPI recommends the Commission adopt an “intra-industry compliance certification program” in which providers deliver to their customers certifications that the provider is in compliance with intercarrier compensation orders, tariffs, and agreements.<sup>9</sup> The benefits of the certification are not clear. While ANPI asserts that the requirement would “fill a yawning gap” in the Commission’s rules,<sup>10</sup> ANPI does not identify what gap is being filled. It does not argue, for example, that the Commission lacks any necessary authority to investigate and take enforcement action against intermediate providers who fail to deliver calls. Nor does ANPI explain how its proposed certification program would assist the Commission in any investigation.

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<sup>7</sup> NARUC Comments at 6. *See also* Comments of the Public Utilities Commission of Oregon, WC Docket No. 13-39, at 3 (filed Jan. 16, 2014).

<sup>8</sup> *See* Comments of Associated Network Partners, Inc. and Zone Telecom, Inc. WC Docket No. 13-39, at 2-6 (filed Jan. 16, 2014).

<sup>9</sup> *Id.* at 3-4.

<sup>10</sup> *Id.* at 3.

To its credit, ANPI attempts to minimize the burdens associated with its proposal. Accordingly, ANPI does not recommend that the Commission collect its proposed certifications, acknowledging that “a routine filing requirement would place an unwarranted burden on service providers and could inundate the Commission with unnecessary filings.”<sup>11</sup> But of course generating, updating, and exchanging these certificates with other providers would also be burdensome. Given the lack of an identified significant countervailing benefit, Level 3 recommends against adopting the ANPI proposal.

Finally, Level 3 urges the Commission to refrain, at this time, from adopting Windstream’s proposal to require intermediate providers to include in a certification “a description of the intermediate provider’s pervasive controls in place to facilitate call completion, including evidence that the intermediate provider has in place appropriate routing and termination logics, effective release-back procedures for calls the intermediate provider fails to terminate, and measures to prevent call looping.”<sup>12</sup> The record does not, at this time, demonstrate that imposing this more detailed (and accordingly more burdensome) certification requirement would result in a significant improvement in call completion performance, nor that the uncertain benefits would be worth the additional burden on providers to generate the certification or Commission staff to review it.

## **II. Conclusion**

Level 3 applauds the Commission’s focus on call completion performance generally and on intermediate providers that may not be delivering calls properly specifically. However, at this time there seems to be little utility to imposing additional certification requirements on intermediate providers. Fundamentally, the problem with the certification proposals advanced

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<sup>11</sup> *Id.* at 5.

<sup>12</sup> Comments of Windstream Corporation, WC Docket No. 13-39, at 3 (filed Jan. 16, 2014).

by commenters is that, while they are directed toward the acknowledged source of the problem—intermediate providers that do not properly perform their function—they seem unlikely to do much to improve the situation. The Commission should refrain from imposing regulatory burdens as a stand-in for effective action. Instead, the Commission should focus its energy on using its existing authority to obtain useful information, investigate reports of call completion problems, and take firm but fair enforcement action where appropriate.

Respectfully submitted,

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