

October 8, 2008

The Honorable John D. Dingell, Chairman
The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

The Honorable Ed Markey, Chairman
The Honorable Cliff Stearns, Ranking Member
Subcommittee on Telecommunications
and the Internet
Washington, DC 20515

Dear Representatives Dingell, Barton, Markey and Stearns:

The U.S. Court of Appeals for the District of Columbia Circuit has given the Federal Communications Commission (Commission) a deadline of November 5, 2008 to justify its compensation rules governing “dial-up” calls to Internet Service Providers. Chairman Martin, however, is proposing to ask the Commission to consider making sweeping changes to the entire complex regime that regulates intercarrier compensation and federal universal service support before the court’s deadline. It appears that the changes under consideration far exceed what is necessary to address the court’s remand; yet, the specifics of these changes have not been shared with any affected parties, even though they have the potential for significant harm. We ask you to intervene to ensure that a fulsome and public review occurs before the rules are adopted.

The undersigned parties have disparate views on the need for such comprehensive reform of the intercarrier compensation regime and the best way to achieve such reform. But we all agree that there is a substantial risk of harm if the Commission were to rush to judgment on this complex set of issues. The changes currently under consideration have the potential to increase charges to consumers, both through telephone rate increases and by increasing the size of the federal universal service fund. In addition, some proposals before the Commission would create massive disruption in the operational and financial relationships between carriers, potentially jeopardizing achievement of Congress’ goal of promoting facilities-based competition to incumbent local exchange carriers like AT&T and Verizon to offer consumers a choice.

It would be a serious error for the Commission to rush to make these crucial decisions without giving affected parties an opportunity to review and comment on the details of the proposals. We urge the Congress to ensure that the Commission, at the very least, issues the actual text of the proposed rules for public comment so that the Congress and interested parties can fully assess the policy and legal underpinnings of the proposed rules. Beyond the limited remand issue described above, the Commission is not faced with a legal mandate to act on these matters. It should, therefore, take the time to make certain it acts in the best interest of all concerned rather than in the interests of a select few commercial firms.

Respectfully,

Birch Communications
Cbeyond
Comcast Corporation
Covad Communications
ITC^Deltacom, Inc.
tw telecom

Cavalier Telephone & TV
Charter Communications
Comptel
Integra Telecom
NuVox
XO Communications

October 8, 2008

The Honorable Daniel K. Inouye, Chairman
The Honorable Kay Bailey Hutchison, Ranking Member
Committee on Commerce, Science & Transportation
United States Senate
Washington, DC 20510

Dear Senators Inouye and Hutchison:

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