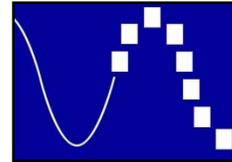


DRAFT

December 15, 2006

Via Electronic Mail to FR0502@ustr.eop.gov



The VON Coalition

Ms. Gloria Blue
Executive Secretary, Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, DC 20508

Dear Ms. Blue:

The VON Coalition appreciates the opportunity to express VON Coalition member company views regarding the operations and effectiveness of trade agreements that impact the provision of telecommunications products and services. We are especially grateful for the opportunity to speak to VoIP market prohibitions and barriers.

The Voice on the Net or VON Coalition consists of leading VoIP companies, on the cutting edge of developing and delivering voice innovations over Internet. The coalition works to advance regulatory policies that enable consumers and businesses to take advantage of the full promise and potential of Internet voice communications.

This submission references the following agreements:

- World Trade Organization (WTO) Agreement on Basic Telecommunications (BTA) and the associated Reference Paper
- WTO General Agreement on Trade in Services (GATS)
- WTO Information Technology Agreement (ITA)
- WTO Technical Barriers to Trade (TBT) Agreement
- North American Free Trade Agreement (NAFTA)

VoIP is Enabling Vast New Benefits:

Around the globe, Internet voice communications are transforming the way consumers and businesses communicate. With the right legal and regulatory framework, VoIP-led innovation has immense potential to extend the power of Internet communications to new corners. Consumers throughout the world will be able to use VoIP to do things never thought possible, businesses may increase efficiency and productivity and transform the way they operate, and broadband enabled communications can help economies to become engines for innovation and the creation of higher-paying Information Age jobs.

In contrast to traditional telephone service, IP voice is an application just like e-mail, streaming audio, streaming video, and web browsing. IP voice can be combined with other IP-based applications over IP-enabled networks, increasing the reliability and robustness of IP applications and services that ride over these next-generation broadband networks. The benefits of IP-enabled services include cost savings for consumers, reduced operational costs for providers, advanced features unavailable with traditional circuit-switched telephony, increased competition, increased infrastructure investment, accelerated broadband deployment, improvements in emergency services, lower cost communications for rural and government users, increased access for persons with disabilities, and increased worker productivity. Today's VoIP telephones aren't simply a means to having a conversation; they're portals to a world of information that enriches the communications experience and adds new dimensions to the idea of 'conversation'.

With limited governmental action, VoIP can and will continue to create new opportunities for businesses and consumers across the globe. Opening markets to VoIP services around the globe is critical for spurring new competition and opportunity – allowing consumers and businesses to communicate more affordably, more productively, and in entirely new ways not possible with legacy communication systems.

And the best is yet ahead. The next wave of VoIP driven benefits can facilitate transformative improvements in the way we communicate. Soon a voice component can be added to any type of device, application or service that uses a microprocessor or touches the Internet. Already making a call can be just a click away. By disconnecting voice from the underlying infrastructure, voice innovation can now take place at Internet speed, allowing breakthrough advances in the way we communicate, incorporate video, and data.

Consistent Policies Can Unleash VoIP's Inherent Advantages

While country regulatory frameworks affecting VoIP vary around the globe, the VON Coalition has outlined a few basic principles which nonetheless remain constant:

- VoIP is not a new kind of telephone service, but a whole new frontier in communications. VoIP is much more than a substitute for traditional circuit-switched telephone service. VoIP permits the integration of voice, data, and other IP applications enabling a host of breakthrough applications and services not possible with traditional circuit-switched networks.
- VoIP is the test case for the broader regulation of variety of new, emerging, and yet unknown IP-enabled technologies and services (e.g., IPTV). VoIP is the first in a subset of an expansive new class of global applications that run over the Internet. What happens with Internet voice will impact a wide variety of future innovations and services.
- Rather than automatically applying yesterday's rules, VoIP requires a new forward-looking framework. It should not be governed by rigorous, outdated, or complex regulations controlling traditional circuit-switched telephone service.
- Reflexive application of legacy telecom regulations to VoIP will stifle the growth of cutting edge IP-enabled technologies and services that converge voice and data in entirely new ways, are not possible in legacy phone networks, and can lift economies and lead to vast economic and productivity improvements.
- Unilateral action by broadband providers to stall, stifle, or stop VoIP applications can hamper the Internet's inherent advantages to provide users and business with new opportunity. Consumers should be allowed to use any device, application, or service on the Internet that they choose. Indeed, the openness of the Internet has been its defining hallmark, and such openness is critical to unlocking the vast future potential of Internet communications. At the same time, consumers should not be prevented from lawfully using the bandwidth for which they contract and pay.

Market Barriers Are Stifling Benefits.

As broadband penetration continues to escalate around the globe, a few countries and companies have taken steps to erect barriers that limit consumers and businesses from taking advantage of the full promise and potential of Internet based services like VoIP. These actions, detailed here, help stifle Internet based voice competition, prevent U.S. troops and business travelers from calling home, and limit investment in new markets. As VoIP

technology gets integrated into more types of software and web applications, the barriers to VoIP that are created in one area will inhibit a much wider range of applications, services, and devices in others.

Several countries that have kept entry barriers high for traditional voice services have also applied these same high barriers to Internet technologies, thus restricting VoIP entry. In other cases, ambiguities about VoIP service classification have allowed incumbent phone companies to unilaterally block or restricted the ability of any entity, foreign or domestic, to supply VoIP services over their broadband network. In some cases access to and the cost of telephone number fees can be a significant barrier to market entry, as is the ability to interconnect to the legacy PSTN network. And Incumbent phone companies have been using their might within the telecom infrastructure to hold back the growth of the VOIP market.

In some cases, incumbent telephone carriers who also control the broadband network have unilaterally blocked users from communicating with VoIP over their broadband network. In several of these cases, the regulator has been complicit in efforts to curtail Internet voice communication. It doesn't just impact a call to a loved one or business colleague, it also threatens to disconnect U.S. troops serving overseas from their families, and thwart the kind of communications essential for lifting economies into the information age. It is precisely for these reasons that Congress just passed the Call Home Act of 2006 (S. 2653) – to ensure that armed forces personnel serving overseas are able to affordably call home including through the “deployment of new technology such as voice over internet protocol” and by seeking “agreements with foreign governments to reduce international surcharges on such telephone calls.”

Country Specific VoIP Barriers:

China.

The increasing number of broadband subscribers in China¹ is cultivating a strong foundation for VoIP services to build upon. In fact a huge VoIP market boom is anticipated to emerge in 2007, with the overall service volume rising to as high as 324 billion minutes and the growth rate increasing to 241%.² According to one estimate, Chinese VoIP revenues will reach over \$10 billion by 2010, with over 600 million fixed line subscribers.³ Yet the imposition of strict criteria on licensing and belated market entry at home is delaying VoIP's benefits and harming competition. At the same time, as other countries around the globe open up their own domestic markets to VoIP services, greater China benefits enormously as the largest exporter of VoIP products in the world.

China's regulators promise VoIP service will be available in the future, but strict licensing criteria and delayed market entry have reduced the likelihood of being able to provide robust VOIP services in markets for several years. Even though the government is currently controlling the market by blocking the entry of foreign competitors through regulations, there is an unavoidable technological trend toward the commercialization of VoIP in China. The question is whether China will allow entry sooner and gain from its advantages or further delay entry and lose out on enormous economic benefits.

¹ 43,000,000 broadband subscribers as of Dec/2004 per CNNIC.

<http://www.internetworldstats.com/asia/cn.htm>

² China VoIP Market Development, 2005, <http://www.mindbranch.com/products/R686-26.html>

³ Telintel, <http://www.tmcnet.com/news/2006/03/14/1456711.htm>

China employs a licensing system which requires approval by the Ministry of Information Industry (MII) or its local offices in each province to operate within both the basic telecom service market and the value-added service market. Because SIP based VOIP technologies were not mature at the time, PC-to-Phone (web phone) service, which uses both the IP network and the PSTN, was not classified or covered in the Catalogue of Telecom Services issued by the MII in February 2003.

MII has controlled the VoIP market's growth by granting VoIP licenses only to China Netcom and China Telecom, the two major fixed carriers. The U.S. Department of Commerce's Foreign Commercial Service⁴ believes that there will be difficulties for VOIP service providers to enter the web phone service market in China before: 1) the existing web phone service trials are proven successful (two incumbents were authorized to run trial services in September 2005), 2) web phone service is allowed countrywide, and 3) other basic telecom carriers in China also launch their own web phone service.

For now, U.S. firms can only partner with local ISPs that have good business relationship with the incumbent telecom carriers to provide services to corporate users and act as resellers of the long-distance calling services of the telecom carriers. However, even when partnered with a local provider, barriers have been erected. For example in September 2005, China Telecom, China's largest wireline phone company blocked TOM-Skype's PC to phone calls in Shenzhen.⁵ As more web sites and software applications become capable of proving PC to phone calls, such blocking will inhibit China's own ability to harness the power of the Internet for economic growth.

By contrast as other countries open up their own domestic markets to VoIP competition, greater China already benefits handsomely from its own VoIP exports. Greater China manufacturers are expected to produce 29 million VoIP products in 2006, with a global market share in 2006 above 60 percent.⁶ Greater China's exports include VoIP gateways, phones, terminal adaptors and routers, USB phones, USB gateways and high-end IP PBXs. China only stands to benefit from a VoIP market at home and around the globe that can continue to grow and thrive unabated.

The VON Coalition therefore urges Chinese regulators to accelerate their efforts to license VoIP services -- including to non-Chinese companies and to eliminate the requirement that a Chinese national own more the 50% of the licenseholder -- quickly complete the trials now underway, prevent incumbents from blocking VoIP services, allow webphone services to be offered countrywide, and harness the full power and potential that new Internet based voice communication offers. A longer-term goal is to eliminate the licensing requirement altogether and instead allow VoIP providers, whether Chinese or foreign-based, to operate provided they met minimal conditions for service (as in the U.S. and EU telecom frameworks).

India.

India only legalized VoIP in 2002. Previously, VoIP use in any form was banned in the country. But its potential is now just beginning to be seen. India has emerged as one of the fastest growing phone markets in the world, with monthly sales of more than 3 million

⁴ http://www.buyusainfo.net/docs/x_5717215.pdf

⁵ <http://www.ft.com/cms/s/53360eec-b7bf-11da-b4c2-0000779e2340.html>

⁶ <http://www.1888pressrelease.com/greater-china-voip-product-exports-projected-to-top-22-milli-pr-3q55xii80.html>

connections⁷, but VoIP is largely left out of this equation. India has enormously high barriers to VoIP market entry.

India requires a provider of VOIP interconnected to the PSTN (phone to phone) to get a national/International long distance license which costs about a half million dollars.⁸ In addition, it must pay 6% of annual gross revenues as a licensing fee. Although the Department of Telecommunications (DoT) has acted to significantly reduce licensing fees in recent years, fees are still extraordinarily high by international standards and create a significant market entry barrier.

To protect local exchange carriers (ILECs) and interexchange carriers (IXCs) from losing revenue the Telecom Regulatory Authority of India (TRAI) has established stringent rules prohibiting VoIP providers from directly interconnecting to the PSTN to terminate calls, and specifically prohibits any VoIP provider from terminating calls to the Indian PSTN whether to a landline or mobile operator. VoIP can be used for making phone calls from a PC to a phone abroad, PC-to-PC within and outside India, and between two PCs globally. However, VoIP cannot be used to access traditional telephony devices, thereby curbing the growth of VoIP in India and limiting the potential of the technology to expand communications opportunities. This means that competitive VoIP providers cannot offer services that enable users – business or residential -- to connect to the Indian PSTN. Such a barrier makes it significantly more difficult for new providers to enter the Indian market and offer services that compete with incumbent telcos, and it makes it harder for India to become the back office for other businesses located around the globe.

Similar restrictions also apply to private enterprises that wish to use VoIP to provide internal communications to their employees. For example, a ban still prohibits enterprises from using VoIP to directly call the Indian PSTN. Enterprises must partner with Indian telcos in order to permissively terminate VoIP calls to the Indian PSTN.

Given the limits imposed on VoIP, the ability to deliver lower prices and new services to Indians has been stifled and stalled. For example PC to Phone VoIP service usage has stalled. From June to August of 2005, only 39.1 million minutes of PC-to-phone traffic was generated in India – down from 41.52 million for the previous three months.⁹ The inability to maximize the use of a broadband connection for local phone calls can also impede other Indian goals by for example reducing demand for broadband – which is growing but far from meeting the goal of 3 million broadband lines by December of 2005.¹⁰ In addition, although forward looking policies have enabled a competitive wireless market, there are signs that VoIP regulatory hurdles are now hurting India's prospects for taking advantage of fixed-mobile-convergence.¹¹ The Indian government has set a goal of creating 20 million broadband connections by 2010 and doubling teledensity (number of phones per capita) to 15 percent. To achieve these valiant goals requires a cost-effective and scalable technology like VoIP.

⁷ Just 11% of India's billion people own phones.

<http://www.tmcnet.com/news/2005/dec/1218897.htm>

⁸ On November 10, 2005, the Department of Telecommunications (DoT) reduced license fees to \$547,046, effective January 1, 2006, to encourage new long-distance and international long-distance operators (NLD/ILD). It also reduced the annual license fee for both services from 15% of annual gross revenue (AGR) to 6%.

⁹ http://www.ilocus.com/ui_dataFiles/news28sept05.htm

¹⁰ 750,000 broadband users as of November 2005, with a goal of 3 million by December 2005. <http://www.tmcnet.com/news/2005/dec/1218897.htm>

¹¹ http://www.ilocus.com/ui_dataFiles/news13October06.htm

In addition, TRAI has also adopted burdensome and in some cases nonsensical quality of service (QoS) requirements for long distance VoIP services which are not applied elsewhere.¹² VoIP often allows users to make calls independent of the underlying network and without control over the underlying network quality of service.

The VON Coalition also applauds TRAI for significant changes to the Access Deficit Charge (ADC) regime as it phases out the universal service plan by 2009. The VON Coalition supports additional consideration of a proposed revenue plan that would¹³:

- Help address the gray market in international calling by removing the discrepancy between domestic and international termination rates; and
- Make the system more efficient, equitable and non-discriminatory, by fairly applying costs to all industry players.

Unified Licensing – TRAI has also proposed a Unified Licensing regime, allowing service providers to offer any service, on any technology platform, in any manner it chooses, and typically across any region(s) in the country. Such a licensing regime would eliminate many regulatory hurdles for VoIP that result from service specific licensing and high entry fees. The VON Coalition supports TRAI's efforts to unify licensing regimes.

Therefore, as discussed above, TRAI should be encouraged to eliminate the prohibition on VoIP providers and enterprises from connecting to the PSTN. In addition, pure Internet communications between two PC's should not be subject to a local authorization/licensing regime. In addition, TRAI's initial and recurring licensing fees should be reduced to nominal levels, and TRAI should instead implement a Unified Licensing regime. Lastly, the VON Coalition also urges Indian regulators to prevent the blocking of Internet calling and to adopt four basic Internet freedoms to ensure that consumers are allowed to use any device, application, or service on the Internet that they choose¹⁴.

United Arab Emirates (UAE)

UAE with one of the highest levels of Internet penetration, is thwarting its other efforts to open up its markets by closing off all VoIP communication options. In 2001, the UAE successfully prosecuted people who attempted to bypass Etisalat's exclusive telecommunications access. Two people who set up a voice-over Internet protocol (VoIP) router were sentenced to three months in jail plus a substantial fine.¹⁵

UAE now is blocking access to all VoIP services.¹⁶ This outrageous and unpopular effort to block valuable new Internet based services can thwart UAE's efforts to become a gateway for trade and communication. While consumers and businesses have lost an important communication option, the only beneficiary has been Etisalat's profits which jumped following the VoIP ban to \$403

¹²

http://www.trai.gov.in/trai/upload/Regulations/14/Regulation%20on%20QOS_IIrd%20Amendment.pdf

DoT rejects TRAI directive on VOIP quality standards

<http://www.thehindubusinessline.com/2003/01/23/stories/2003012301630500.htm>

¹³ <http://test.tiaonline.org/policy/global/india/documents/US-INICTWGIndustryTelecomSectorPoints200604.pdf>

¹⁴ The FCC has adopted four principles for preserving and promoting the open and interconnected nature of the public Internet, at:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-260435A1.pdf

¹⁵ Eman Abdullah & Joanna Langley, *Firm To Appeal in Internet Phone Call Case*, Gulf News, June 25, 2001.

¹⁶ http://www.skypejournal.com/blog/archives/2005/04/uae_blocks_skyp.php

million, 30 percent more than the same period last year and leaped further in the fourth quarter by 41 percent.¹⁷

According to press reports, the director general of the UAE Telecommunications Regulatory Authority (TRA), Mohamed Al Ghanim has stated categorically that the UAE market will not be opened up to VoIP services, and that voice services will remain the exclusive domain of the country's two licensed integrated operators: Etisalat and du.¹⁸ And while work may be underway on a framework to legalize VoIP, no timetable has been given.¹⁹

One of the rationales given by regulators in the UAE for making VoIP illegal and blocking its use is that incumbents in the U.S. are going out of business because of VoIP saying, "[t]he US, which leads the way in this technology, is reviewing its regulation [regarding VoIP] because providers are going out of business."²⁰ This couldn't be farther from the truth. Incumbents have embraced VoIP with their own offerings and policymakers in the U.S. have promoted the benefits of VoIP. For example President Bush has said, *"I support innovative communications technologies like Voice Over Internet Protocol (VoIP), and believe they will lead to more communications choices for consumers."*²¹

The VON Coalition urges the UAE to act immediately to prevent the blocking of Internet calling and adopt basic Internet freedoms to ensure that consumers are allowed to use any device, application, or service on the Internet²². Further, the UAE should move swiftly to adopt an open and competitive VoIP policy framework.

The VON Coalition has learned that Omantel (both the phone company and the only ISP in Oman) has been blocking all VOIP services. Oman has attempted to block VoIP services in three ways: by blocking DNS servers, deep packet inspection, and banning VoIP software. More brute force efforts to block ports typically used by SIP clients have also been employed. Specifically, H323 ports 1720 and 1719 have been blocked and SIP port 5060 is blocked. By blocking these ports, VOIP incoming and outgoing traffic has been blocked to and from the country. The VON Coalition believes consumers should be allowed to use any device,

17

http://www.miami.com/mld/mercurynews/business/15827063.htm?source=rss&channel=mercurynews_business

¹⁸ "TRA: VoIP will not be liberalised in UAE",

<http://www.itp.net/news/details.php?id=22831&category=>

19

http://www.khaleejtimes.com/DisplayArticleNew.asp?xfile=data/business/2006/November/business_November603.xml§ion=business

20

http://www.khaleejtimes.com/DisplayArticleNew.asp?xfile=data/business/2006/November/business_November603.xml§ion=business

²¹ President George Bush, October 2004, said to CompTIA *"I support innovative communications technologies like Voice Over Internet Protocol (VoIP), and believe they will lead to more communications choices for consumers. ... We must work toward creating regulatory certainty, which provides companies with the incentive to invest in new technologies and services. Internet telephony by its nature relies on technology that does not distinguish geographic borders. This requires us to take a hard look at the appropriate role of Federal and state regulators with respect to a technology that may be more similar to email than to regular telephony, at least in the way the signal is transmitted."*

²² The FCC has adopted four principles for preserving and promoting the open and interconnected nature of the public Internet, at:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-260435A1.pdf

application, or service on the Internet that they choose using the bandwidth for which they pay. The Coalition urges regulators in Oman to immediately open up its market to the vast benefits that VoIP can deliver.

Jordan

On September 13, 2006 Jordan's Telecommunications Regulatory Commission (TRC) sent letters to Internet Service Providers in Jordan, ordering them to block Skype's website.²³ Then, the Telecommunications Regulatory Commission decided to allow Skype services to resume a month after they were blocked.²⁴ The decision allowed Jordan's estimated 629,500 Internet users to once again take advantage of a technology that allows voice and video conferencing as well as text messaging between computers for free.

VoIP blocking is contrary to the TRC's VoIP Policy statement which finds "*No Internet service provider, including Jordan Telecom, is authorized to block or otherwise interfere with the activities of any Internet user in Jordan in accessing or communicating with users or other entities outside of Jordan using VoIP without express prior authorization from the TRC.*"²⁵

The VON Coalition commends Jordan's Telecommunications Regulatory Commission for reversing course, deciding not to promote the blocking of Internet communications, and its continued focus on opening up its market to VoIP competition. However, Jordan Telecom's exclusive right to provide VoIP is contrary to achieving a vibrant and open Internet voice market.

Mexico

Mexico has long suffered the consequences of a telecommunications sector that lacks competition and communication choice. Existing VoIP market barriers are quickly turning into a barrier to the development of affordable, globally-linked communication technologies that are necessary to support economic development in the information age.

For VoIP, Mexico has created market barriers by only allowing VoIP services to be offered as a basic telecommunications service which can only be provided by holders of a local or long-distance concession/license – treating tomorrow's Internet technologies the same as yesterday's long distance services.²⁶ In addition, Mexico requires an inordinate amount of information during the license process, including detailed business cases and technical information that acts as a barrier to innovative new entrants.²⁷ A performance bond is also required which can often run upwards of \$1 million.²⁸

²³ According to Jordan's Weekly Star,
<http://www.star.com.jo/viewNews/DetailNews.aspx?nid=3462>

²⁴ Jordan Times published a story on October 13, 2006,
http://zeidnasser.blogspot.com/2006_10_01_zeidnasser_archive.html

²⁵
http://www.trc.gov.jo/Static_English/MNP_EN_files/New%20Stuff/Final%20VoIP%20Statement%20Final.doc

²⁶ An international long distance concession is required for all cross border traffic no matter what transport technology is used.

http://conferences.utcle.org/law/cle/conferences/archive/TC06/16_Sifuentes_TC06_ses16_ppt.pdf

²⁷ Applicants must demonstrate, among other things, financial ability technical capacity. (Artículo 13 del Reglamento del Servicio de Telefonía Pública.)

²⁸ Concessionaires are required to post a type of performance bond. The bond differs among applicants depending on their qualifications, but normally is over one million USD. (Artículo 10 de "Reglas para Prestar el Servicio de Larga Distancia Internacional que Deberán Aplicar Los

Mexico also has foreign ownership restrictions essentially requiring the finding of an in-country partner joint venture partner and subsequent formation of a joint venture.²⁹ Taken together, these requirements can delay entry by as much as 12 to 18 months – often bypassing a whole generation of VoIP technology upon which the application and business case may have been based. As a result, Mexico suffers from a lagging VoIP market, lackluster telecommunications competition, and consumers and businesses are saddled with communications bills that thwart their productive capacity.³⁰ As USTR has noted previously, “restrictions on the ability of any entity, foreign or domestic, to supply VOIP appears inappropriate and would only serve to limit competition in voice services.”³¹

We are however encouraged that Mexico's Ministry of Communications and Transportation (SCT) has taken new steps this year to allow domestic cable companies to offer local fixed telephony concessions.³² As USTR has previously noted, Cable TV operators were slowed in their efforts to compete with Telemex in voice service having been given the legal capacity to offer VoIP telephony services through their networks only if they partnered with a licensed telecom carrier.³³ This requirement limited the spread of VoIP services.

The VON Coalition urges regulators in Mexico to fully open its market to VoIP services, reduce entry barriers, and enjoy the benefits that VoIP can deliver.

Colombia.

Colombia is not only one of the largest communications markets in Latin America, it is also a large destination for VoIP traffic. The exchange of traffic between the U.S. and Colombia ranks as the 12th largest international route in the world and one of the fastest growing, with more than 1.7 billion minutes exchanged in 2004, more than twice the volume in 2003, according to Telegeography 2006.

With a large and growing Internet population³⁴, Colombian consumers and businesses have a lot to gain from VoIP services. However with excessively high market barriers, entering the Colombian market is difficult to nearly impossible. Only licensed operators can offer VoIP if they hold a valid fixed-line long-distance license. However, the licenses are prohibitively expensive (by one estimate as much as \$1 million per license) and only the incumbent operators have obtained them. The Ministry of Communications considers that VoIP is not a value-added service if it cannot be differentiated from the conventional long-distance service

Concesionarios de Redes Públicas de Telecomunicaciones Autorizados para Prestar este Servicio” (las “RLDI”).)

²⁹ Carriers must be must be at least 51 percent Mexican owned to be eligible for a concession. (Ley Federal de Telecomunicaciones, Artículo 12, julio 7 de 1995.)

³⁰ <http://fp.advertising.msn.com/WWDocs/User/es-mx/Research/Mexico%20-%20Convergence,%20Broadband%20and%20Internet%20market.pdf>

³¹ 2005 NTE

http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/2005_NTE_Report/asset_upload_file467_7483.pdf

³²

<http://www.itu.int/ituweblogs/treg/Regulatory+Review+Commission+Backs+Tripleplay+Bill+In+Mexico.aspx>

³³ 2006 NTE

http://www.ustr.gov/assets/Document_Library/Reports_Publications/2006/2006_NTE_Report/asset_upload_file260_9191.pdf

³⁴ Colombia has 4,739,000 Internet users as of December 2005, 11.5% of the population, according to CRT <http://www.crt.gov.co/>.

from a technical standpoint; and if the characteristics added to the service cannot be perceived by the end user.

Costa Rica.

The Costa Rica market is completely closed to competition whether from VoIP or other forms of telephony competition. Further, the state-owned telecommunications monopoly, Instituto Costarricense de Electricidad (ICE), has proposed legislation to criminalize the use of VoIP.³⁵

Saudi Arabia

Saudi Arabia is working to be an IP technology leader³⁶ which is helping the country move toward its goal of being a "connected kingdom." However, the VON Coalition is deeply troubled that Saudi Telecoms uses IP tracking technology to block VoIP calls.³⁷ Such blocking can inhibit the flow of ideas, economic progress, and prevent visiting U.S. businessmen and soldiers from calling home.

Yet we are encouraged that CITC is making progress on developing a positive framework for VoIP that can enable consumer savings, new competition, and move Saudi Arabia forward into the digital age³⁸. Previously, it has been said that Saudi Arabian regulations are protecting a phone company's revenues, prohibiting customers from saving money by making phone calls using any service other than the national carrier, Saudi Telecom.³⁹ However, demand for computer hardware and software in the Kingdom is being heavily influenced by the growing use of voice over Internet Protocol (VoIP) for long distance calls. Currently, it is now legal to use VoIP in and among Saudi government agencies⁴⁰. However, public VoIP is prohibited until an appropriate data license is granted, which is expected to happen sometime in 2006.⁴¹

The VON Coalition commends Saudi leaders for moves to become a high-tech leader, and encourages swift action to open up its market to VoIP. Specifically, regulators must act to prevent Saudi Telecoms from blocking its user's ability to use the application, service or device of their choice using the broadband networks for which they pay.

Panama

Panama was the first country to announce a public all out ban on VoIP services back in 2002⁴². On October 25, 2002, a regulatory decision by the Public Services Regulator in Panama required ISPs to begin blocking 24 UDP ports, including the gateways most commonly used for VoIP.⁴³ The block was enforced amid complaints from Cable and Wireless (C&W) Panama that they were losing revenue to people using VoIP to make telephone calls. In January 2004, Panamanian regulators took a different approach by requiring broadband customers in Panama pay a 12 percent tax on calls made using VoIP⁴⁴. Previously, the

³⁵ Costa Rica May Criminalize VoIP, <http://www.techweb.com/wire/networking/60403862>

³⁶ Cisco Saudi Arabia is the fastest growing region in the world
<http://www.tmcnet.com/usubmit/2006/11/12/2069223.htm>

³⁷ <http://www.narus.com/press/2005/0418.html>

³⁸ <http://www.ituarabic.org/ArabReg-Network-UAE/Presentations/Workshop%20Presentations/Saudi%20Arabia.pdf>

³⁹ <http://www.spectrum.ieee.org/oct05/1846>

⁴⁰ <http://www.gitextimes.com/features/details.php?id=4192&category=>

⁴¹

http://www.globalcomm2006.com/speakers/presentations/Amir_AI_Gibreen_presentation.pdf

⁴² http://www.hotvoipnews.com/blog_89.shtml

⁴³ <http://news.com.com/2100-1033-965073.html>

⁴⁴ http://news.zdnet.com/2100-3513_22-5144030.html

government had fined Internet cafes between \$10,000 and \$50,000 for letting customers make Internet phone calls.⁴⁵

However by May 2006, VoIP services were once again being blocked in Panama. On May 20th 2006 C&W, without prior notification or authorization, began blocking specific IP addresses for VoIP services to all of its high speed internet customers. C&W, who initially denied the block, has said it has the right to block access to VoIP services because it was their network, and contractually, its customers have no right, and in fact a specific limitation against transmitting voice communication over the Internet. It stems from a February 2005 lawsuit⁴⁶ where Cable & Wireless sued a VoIP provider in order to prevent it from offering their VOIP services to C&W's ADSL customers, arguing they needed permission from C&W to do so. C&W, as the incumbent, controls the vast majority of the high speed internet users in Panama with their ADSL product. The VoIP provider did not control which broadband network its customers choose. A decision to block any one VoIP service, can often mean blocking all VoIP services – whether PC to PC, or PC to PSTN; regardless of regulatory status; and regardless if it is a call to a loved one or for an emergency.

The VON Coalition urges Panama's regulators to open up its VoIP market, and prevent broadband providers from unilaterally blocking its user's ability to use the application, service or device of their choice using the broadband networks for which they pay.

South Africa.

South Africa is making progress. In 2004, Telkom - South Africa's incumbent telephone provider -- threatened consumers using VoIP with legal action because it believed the use of such software is against the law⁴⁷. One report, "*An overview of VoIP regulation in Africa: policy responses and proposals*" commissioned by the Commonwealth Telecommunications Organisation (CTO) found that African regulators in general have been reluctant to legalize VoIP, based on a largely misguided attempt to protect the revenue base of the incumbent fixed-line, and in some cases, mobile telcos.⁴⁸ According to one source, At least 50% of South African companies have been excluded from the voice over Internet Protocol (VOIP) revolution because of the market structure.⁴⁹

However in February 2005, South Africa legalized VoIP and allowed holders of value-added network services and or enhanced-service licenses to carry voice on their networks. After VoIP was deregulated, a number of small firms began offering service, primarily to businesses⁵⁰. The rise of VoIP services means competition is seeping into the South African telecoms market. However in November 2005, VoIP providers lodged a complaint with the regulator ICASA in order to access Telkom's network to terminate calls.⁵¹ The complaint was filed after a September 2005 denial of an interconnection request on grounds that VoIP was "illegal."

However, in just the last few months, mobile carriers in South Africa want VoIP carriers to pay about \$4 per MB for termination services. In an ITWeb article MTN General Data Manager Brian Seligman is quoted as saying that "*We [MTN] have filed for a tariff of R25 per megabyte with ICASA for VoIP and have the right to either block VoIP or charge the R25 per*

⁴⁵ http://news.com.com/Smugglers+send+Net+phone+accounts+to+Panama/2100-7352_3-5293668.html

⁴⁶ <http://dealante.com/nodo.php?nodoid=13045>

⁴⁷ http://www.theregister.com/2004/03/25/sa_telco_says_voip/

⁴⁸ http://www.infoworld.com/article/05/10/14/HNafricavoip_1.html

⁴⁹ http://africa.rights.apc.org/index.shtml?apc=21877s21817e_1&x=34323

⁵⁰ http://www.economist.com/PrinterFriendly.cfm?story_id=7855093

⁵¹ <http://www.mybroadband.co.za/nepnp/?m=show&id=1304>

*megabyte tariff.*⁵² MTN has said it has the technical ability to either block VoIP traffic or charge certain rates for VoIP traffic.

The VON Coalition is concerned that South Africa may be in violation of its Reference Paper commitment to ensure cost-oriented interconnection to the public telecommunications transport networks and services.

Korea

In June of 2006, the South Korean Ministry of Information and Communications threatened to shut down VoIP services that connected U.S. soldiers and their families.⁵³ The South Korean Ministry of Information and Communications and Dacom, the Internet service provider that serves about 12,000 U.S. forces stationed in Korea, agreed to a U.S. Forces Korea request to temporarily suspend a deadline to begin blocking VoIP services. Dacom and the two other major ISPs, Korea Telecom and Hanaro, want to ban U.S.-based voice over Internet protocol, or VoIP, companies that are not in compliance with the country's Telecommunications Business Act. In some cases, it appears that U.S. personnel have taken VoIP services with them that are only sold in the U.S. and are therefore not licensed or sold in Korea. Last year, the Korean government decided to regulate VoIP as a "basic telecommunications service," rather than as an unregulated "information service" as it is in the United States – requiring a license from the Korean government in order to operate⁵⁴.

The VON Coalition does not believe that these or other nomadic VoIP services should be blocked. As Free Trade negotiations advance, the VON Coalition supports the inclusion of basic Internet freedoms to ensure that consumers are allowed to use any device, application, or service on the Internet that they choose using the bandwidth for which they pay.

Belize.

In March of 2006 the VON Coalition was contacted and learned that VoIP services were being blocked in and out of Belize. In 2000 Belize Telecommunication Ltd. (BTL), the monopoly broadband provider, began marketing a DSL services. Unbeknownst to most users, the fine print in its service agreement expressly forbade use of voice and video over BTL networks. In March of 2006, BTL asked the PUC to act to allow BTL to deny VoIP, and Instant Messaging services through their network. BTL's argument is that Vonage, AOL, MSN, and others do not hold communication class licenses for Belize and therefore those services are illegal. BTL's demands prompted significant user outrage and the PUC to announce a Public Forum held on April 26th, 2006

By late June, PUC Executive Chairman Gilly Canton indicated licensed internet service providers (ISP) can offer VoIP service. Following the VoIP Public Forum held on April 26, 2006, the PUC on June 23, 2006 issued a VoIP regulatory policy and framework guidelines. On June 29th, a group of local internet service providers told local Channel 7 News they are prepared to take the PUC's word to the bank by launching their own VoIP service. The ten ISPs have formed a cooperative and plan to offer a residential broadband service using a Belize telephone number and able to make local and international calls at affordable rates.

Although progress has been made, the new VoIP framework explicitly allows a broadband provider to provide notice and selectively degrade or block third party VoIP traffic on their networks to an end-user⁵⁵.

⁵² <http://www.mybroadband.co.za/nephp/?m=show&id=4567>

⁵³ <http://www.estripes.com/article.asp?section=104&article=37448&archive=true>

⁵⁴ <http://www.voip-news.com/blog/20060630/follow-up-to-korean-voip-blocking/>

⁵⁵ <http://www.puc.bz/publications/voip%20guidelines%20press%20release.doc>

Chile.

In April 2006, the VON Coalition was contacted about VoIP blocking in Chile. Telefonica blocks the VoIP ports (SIP and H.323) to all its clients who access the Internet through its ADSL service, directly or indirectly through independent ISPs. Telefonica forbids independent ISPs and end users to install any equipment behind the ADSL modem without its written approval.

In November 2006 in a landmark, Chile's Free Competition Defense Court (TDLC) fined the nation's fixed line telephone company \$581 million pesos (US\$1 million) for blocking Internet telephony service providers.⁵⁶

The VON Coalition commends policymakers in Chile for acting to find a solution to this problem and allowing consumers to use the broadband connection for which they pay.

Turkey

Turkey restricts VoIP to only Turk Telecom as the only licensed provider. The Telecommunications Authority has drafted VOIP regulations, which must still be approved by the Council of Ministers before they can take effect.

Jailing Innovators Rather than Opening Markets

The VON Coalition is disappointed in areas where countries have jailed Internet innovators rather than working to open a competitive VoIP market. For example in November 2006, a businessman in Vietnam was sentenced to 16 years in jail for illegally setting up an internet-based telephone service.⁵⁷ Likewise, five foreign nationals were arrested in Namibia in September 2006, for using the Internet to allow people to talk.⁵⁸

Conclusion

Around the globe, countries like Japan and France that have sought to maximize the benefits of VoIP by opening up their markets to competition are now enjoying vast benefits. The VON Coalition and its members believe that it is important that the United States continue its efforts, both bilaterally and multilaterally, to bring about a fully competitive global market for telecommunications services, broadband, and VoIP services in all its forms. This can be accomplished through proactive enforcement of existing trade agreements, as well as the inclusion of basic internet freedoms in future trade agreements.

⁵⁶ <http://www.mercopress.com/Detalle.asp?NUM=9111>

⁵⁷ A Vietnamese court sentenced a businessman to 16 years jail time for illegally setting up internet-based telephone services in the country.

http://news.yahoo.com/s/afp/20061201/tc_afp/vietnamskoreajustice

⁵⁸ <http://www.voipcentral.org/entry/five-held-for-illegal-voip/>

<http://www.voipnews.com.au/content/view/1250/110/>