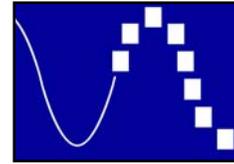


February 29, 2008



Representative Ann Lenczewski
509 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Representative Lenczewski :

As the nation's leading companies developing and delivering voice innovations over the Internet, we are writing to **suggest important changes be made to H.F. 3201 and companion S.F. 2935**. Aspects of the bills would extend Minnesota's intrastate telecommunication rules to Internet communications – in violation of federal rules.

The VON Coalition believes that with the right public policies, Voice over Internet Protocol or VoIP can make talking more affordable, businesses more productive, the Internet more valuable, and Americans more safe and secure. In fact in Minnesota alone, VoIP competition could save consumers an astonishing \$2 billion over the next 5 years¹ – putting real money back into consumers' pockets through the power of competition at a time when families really need it. For Minnesota consumers, VoIP innovations will deliver new competition, lower prices, and improved ways to communicate.

However certain sections of S.F. 2935 and H.F. 3201 would not only stall and stifle these vast consumer benefits, it runs counter to federal policy which seeks to promote competition, investment and innovation.

First, we are especially concerned that Section 9, Subd. 24 defines all forms of VoIP as a "Telecommunications service." VoIP in all of its myriad forms cannot be pigeon-holed into the classification of "Telecommunication service." The FCC has already determined that VoIP services like Free World Dialup are not "telecommunications services" but are instead "information services." Likewise in 2003, the Minnesota Public Utilities Commission (MPUC) attempted to define VoIP as telecommunication in order to impose state telephone regulations on Vonage Holdings Corp., which sued for an injunction.² Federal District Judge Michael Davis rejected the telecommunication service definition and instead ruled VoIP an information service.³ If Minnesota defines VoIP as a "Telecommunications Service," it would once again be potentially opening the door to the application of an array of unnecessary and duplicative telephone rules to the Internet - causing broad and harmful effects that go well beyond the intent of SF 2935 and H.F. 3201 and have nothing to do with the bill's intent.

¹ Micra report (available online at http://www.micradc.com/news/publications/pdfs/Updated_MiCRA_Report_FINAL.pdf) found that VoIP competition can save consumers in \$111 billion over the next 5 years including \$2,041,611,213 in Minnesota..

² *Vonage Holdings Corp. v. The Minnesota Pub. Util. Comm'n.*, 290 F. Supp. 2d 993, (2003).
<http://www.nysd.uscourts.gov/courtweb/pdf/D08MNXC/03-08475.PDF>

³ *Vonage*, 290 F. Supp. 2d at 1002.

Second, the bill is overly broad in scope and does not conform to the FCC's definition of "Interconnected VoIP" for which the FCC has applied limited regulations. The FCC has asserted federal jurisdiction, and limited its regulation to only those services that are substitutes for home phone services, and defined these services as "interconnected VoIP" services. However, SF 2935 and H.F. 3201 define "telecommunication service" so broadly as to capture any oral communication using a computer – whether a home intercom, instant messenger software, or even a child's video game console. Such a mandate could effectively shut out Minnesota consumers from taking advantage of the exciting and new communications technologies that are now emerging in the marketplace and transforming the way we communicate.

Third, the Federal Internet tax moratorium specifically prevents states from applying taxes to certain forms of VoIP including voice-capable instant messaging – which the bill appears to tax.

In view of the federal decisions preempting state regulation and the other harmful effects of regulating Internet services, we encourage you to refrain from attempting to regulate VoIP and instead seek to harness the full power and potential that Internet based communication can deliver. More and more states are coming to recognize that VoIP can be harnessed for enormous public gain – including making phone service more affordable and as a tool for advancing universal access to broadband. For example by harnessing VoIP as a broadband driver, just a 7% increase in broadband adoption in Minnesota could create nearly 50,000 new jobs⁴. As a result, rather than adopting state specific rules for VoIP, government leaders in states like California, Florida, Virginia, Maryland, New Jersey, Georgia and elsewhere have all taken steps to prevent state regulation of VoIP in order to boost broadband deployment, make phone service more affordable, and harness VoIP's vast potential for important public policy goals. We encourage you to follow suit and amend SF 2935 and H.F. 3201 to remove references to VoIP from the telecommunication definition.

Sincerely,

The VON Coalition

About the VON Coalition:

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, which includes BT Americas, CallSmart, Cisco, Covad, EarthLink, Google, iBasis, i3 Voice and Data, Intel, Microsoft, New Global Telecom, PointOne, Pulver.com, Skype, T-Mobile USA, USA Datanet, and Yahoo! works to advance regulatory policies that enable Americans to take advantage of the full promise and potential of VoIP. The Coalition believes that with the right public policies, Internet based voice advances can make talking more affordable, businesses more productive, jobs more plentiful, the Internet more valuable, and Americans more safe and secure. Since its inception, the VON Coalition has promoted pragmatic policy choices for unleashing VoIP's potential. <http://www.von.org>

⁴ Minnesota would see an additional 48,691 jobs from a 7% increase in broadband, according to Connected Nation's State-by-State Summary of the Annual Economic Impact Associated with Accelerating Broadband for Each State http://www.connectednation.com/documents/2008_02_21_TheEconomicImpactofStimulatingBroadbandNationally_AConnectedNationReport_001.pdf