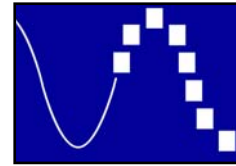


February 17, 2010



The VON Coalition

Dear Representative:

The Voice on the Net (VON) Coalition, which represents the nation's leading companies developing and delivering voice innovations over the Internet, respectfully submits these comments concerning Section 58 of S.B. 469/A.B. 696, which would create new Ch. 196.206 of the Wisconsin statutes. Specifically, in order to ensure that consumers can take full advantage of the power and potential that Internet communication can deliver, VON supports the prohibition on the regulation of Voice over Internet Protocol ("VoIP"). However, by requiring VoIP providers to contribute to the state universal service fund or pay intrastate access charges (as we understand may be proposed) the legislation eliminates the benefits to consumers and the economy of not regulating VoIP providers. The VON Coalition therefore urges deletion of proposed Ch. 196.206(2). With these changes, Wisconsin consumers will benefit from the lower prices and robust services promised by Internet Protocol communications technologies, and the state of Wisconsin will benefit from additional investment in the broadband infrastructure that is necessary to deliver these innovative products and services.

VoIP can be a force for increased competition, a platform for innovation, a driver for broadband deployment and a vehicle for continued economic growth. In fact, with the right policies, VoIP competition can save Wisconsin consumers millions of dollars annually – putting real money back into consumers' pockets when they really need it. Further, by harnessing VoIP as a broadband driver (since VoIP calls are carried over broadband connections), increased broadband adoption in Wisconsin will create jobs as the country works its way out of these difficult economic times.

To help ensure that Wisconsin consumers can benefit from these transformative Internet services, Section 196.206(1) would prohibit regulation of interconnected VoIP. By adopting this provision, Wisconsin would join policymakers at both the federal and state level that have recognized that to unleash the vast benefits that VoIP can deliver, the service should not be subject to a potential patchwork of conflicting state regulatory models. The provision is particularly important for consumers living in rural Wisconsin who have yet to enjoy the benefits of broadband and voice competition.

However, proposed Ch. 196.206(2) would require VoIP providers to make contributions to the state universal service fund, could stall and stifle these vast consumer benefits, and is prohibited under federal law. In March 2007, the 8th Circuit Court of Appeals affirmed the FCC's *Vonage Preemption Order*, which preempted state regulation of VoIP services. The *Vonage Preemption Order* recognized that innovative and evolving services such as VoIP cannot be subject to a patchwork of regulations that would directly conflict with the goals of the Federal Communications Act and the FCC's pro-competitive deregulatory rules. Further when presented with the specific issue of whether the *Vonage Preemption Order* preempts a state requirement that VoIP providers contribute to the state universal service fund, both the U.S. District Courts for Nebraska (affirmed by the 8th Circuit) and New Mexico held that it does. Moreover, the issue of whether states have authority to impose state universal service charges is squarely before the FCC. The FCC is considering a petition for Declaratory Ruling filed by the Nebraska and Kansas state utility commissions, asking that the FCC find that the states can impose universal service

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fund requirements on VoIP providers. Unless the FCC reverses course and grants the Nebraska/Kansas petition, state legislation applying intrastate universal service fund requirements or regulation to VoIP is contrary to federal law.

Second, we understand that incumbent local phone companies are seeking to apply legacy, telephony intrastate access charges to interstate Internet communications, in violation of FCC rules. The application of intrastate access charges to VoIP would stifle consumer benefits and slow broadband adoption in Wisconsin. Applying the intrastate access charge regime to innovative VoIP services is unnecessary and counterproductive; it would, in particular, undermine the objective of bringing advanced technologies to rural areas, where local telephone companies charge intrastate access rates as high as six cents a minute or more.

The legislature should not fundamentally alter the economic relationship between information and telecommunications service providers by imposing intrastate access charges on VoIP providers. Such a drastic change would result in artificially higher prices being imposed on broadband-originated traffic and broadband consumers which would negatively impact broadband deployment overall. Applying this universally recognized broken system to new innovations would likely mean that consumers and business users could miss out on the new services, increased choices and lower prices that VoIP can deliver. Moreover, the FCC is poised in 2010 to consider reform of the entire intercarrier compensation regime and it would be premature for Wisconsin to legislate rules that might be changes in the near future. No state has taken this radical step.

As a result, rather than adopting state-specific rules for VoIP, government leaders in states like California, Florida, Georgia, Maryland, New Jersey and Virginia 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 adopt our recommendations herein for S.B. 469/A.B. 696.

Sincerely,

The VON Coalition

/s/

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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 the Internet. The coalition, which includes Cisco, Google, iBasis, Microsoft, New Global Telecom, Skype, T-Mobile USA, Vonage 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>