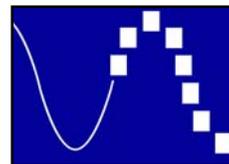


February 8, 2008



Representative Liane "Buffie" McFadyen
Chair, House Transportation and Energy Committee
200 E. Colfax
Denver, CO 80203

Dear Chairman McFadyen:

As the nation's leading companies developing and delivering voice innovations over the Internet, we are writing to request that H.B. 1227 be amended to remove references to VoIP from the bill. H.B. 1277 would extend Colorado's high-cost service mechanism rules to Internet communications – in violation of federal rules.

Internet based voice communication technologies like 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 Colorado consumers an astounding \$1.9 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. As a result, VoIP enabled competition has the powerful ability to lower phone bills in Colorado by an amount 5 times greater than Colorado's high-cost service mechanism can do over the same period.²

However H.B. 1277 would not only stall and stifle these vast consumer benefits, it runs counter to federal policy which seeks to promote competition, investment and innovation. While we appreciate the laudable goals enshrined in the state's Universal Service program of ensuring affordable telephone services throughout Colorado, the legislation raises a number of serious issues:

- First, applying Colorado's intrastate high-cost Universal Service rules to VoIP, as H.B. 1277 contemplates, is strictly prohibited under federal law. In March, the 8th Circuit Court of Appeals affirmed the FCC's Vonage Jurisdictional Order, which preempted state regulation of VoIP services. The Vonage Jurisdictional Order recognized that innovative and evolving services such as VoIP can not be subject to a patchwork of regulations that would directly conflict with the goals of the federal Act and the FCC's pro-competitive deregulatory rules. The FCC also made clear that preempting state regulation of VoIP services was essential to "increase investment and innovation in [VoIP services] to the benefit of American consumers." The FCC has recently stated that nothing in its subsequent decisions to apply limited federal rules to VoIP services undermines its holding in the Vonage Jurisdictional Order. Thus, state legislation applying intrastate telecommunication regulation to VoIP is contrary to the FCC's and the court's decisions. The language in Section 33 does not get around the facts surrounding federal jurisdiction.

¹ Micra report (available at http://www.micradc.com/news/publications/pdfs/Updated_MiCRA_Report_FINAL.pdf) found that VoIP competition could save consumers in Colorado \$1,901,544,103 over the next 5 years.

²The Colorado PUC estimated the High Cost Fund to generate \$72,357,573 in 2008. See: http://www.dora.state.co.us/PUC/DocketsDecisions/decisions/2007/C07-0980_98M-236T.pdf

- Second, we are concerned that Section 33 of H.B. 1277 defines Interconnected VoIP service providers as a “Telecommunications service providers.” Interconnected VoIP cannot be pigeon-holed into the classification of “Telecommunication service.” The FCC has thus far declined to classify Interconnected VoIP as either an “information service” or a “telecommunications service”, but instead has exercised broad jurisdiction over these services. We have concerns that defining Interconnected VoIP as a “Telecommunications Service” in this case would open the door to the application of an array of unnecessary and duplicative telephone rules to the Internet - potentially causing broad and harmful effects that go well beyond the intent of H.B. 1277 and have nothing to do with the bill’s intent to collect Universal Service fees.

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. We understand the very laudable goals of ensuring that Colorado consumers have access to affordable communications. However, 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. As a result, rather than adopting state specific rules for VoIP, government leaders in states like California, Florida, Virginia, Maryland, New Jersey, and Georgia 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.

VoIP can be especially important for consumers living in rural Colorado who have yet to enjoy the benefits of broadband and voice competition. Enabling pragmatic and forward looking VoIP policies can help rural consumers benefit from competition, rural telecom companies to extend broadband more affordably, remote businesses to transform the way they do business, rural communities to connect to a new world of remote job opportunities, and rural economies to become an engine for higher paying information age jobs. Some progressive companies are now even using VoIP to “home-source” jobs to needy rural communities rather than outsourcing jobs overseas. For these reasons, we believe H.B. 1227 should be amended to remove VoIP from the bill.

We look forward to continuing to working with Colorado leaders to forge pragmatic solutions that enable consumers, businesses, and the economy to achieve the full promise and potential that VoIP can deliver.

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>