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ABSTRACT

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VOICE OVER INTERNET PROTOCOL (VOIP)

May 2008

- *Over time VoIP technology has proven to be more efficient and adaptable than traditional phone services.*
- *The legacy regulatory regime under which VoIP operates has become increasingly oppressive.*
- *CCIA believes that regulators must rethink the regulatory framework that governs telecommunications networks, keeping in mind that VoIP is vastly different from the outdated Plain Old Telephone System (POTS).*

Background: Technological progress and commercial success bring with them unforeseen obstacles. Established incumbents and government regulators often react negatively towards disruptive technologies that threaten to upset the status quo. Voice over Internet Protocol (VoIP) is an example of such “disruptive” technology. It stands poised to turn the traditional world of telecommunications on its head. Instead of embracing it, government regulators have sought to impose some of the outdated regulations governing legacy phone networks on new VoIP entrants. In doing so, they have burdened these new companies with increased costs and risk.

CCIA’s Position: VoIP technology has proven to be more efficient and adaptable than traditional phone services. Currently VoIP companies, such as Vonage and Skype, have the functional capability to be competitors with the traditional, copper-wire phone companies. Even though they function like other Internet applications, regulators are treating them increasingly like traditional phone companies. In the past few years, regulators have imposed E911, wiretapping (CALEA), and USF obligations on VoIP companies that can connect to the public switched telephone network (PSTN). As VoIP technology becomes more sophisticated, ubiquitous, and ever more intertwined with traditional Internet applications, the legacy regulatory regime under which VoIP operates becomes increasingly oppressive.

CCIA believes that regulators must rethink the regulatory framework that governs telecommunications networks. Regulators must realize that VoIP is vastly different from the outdated POTS and must not pigeonhole VoIP into the legacy regulations that have encumbered traditional telephone networks. In order to foster innovation and remain competitive in the global marketplace, the United States must develop a regulatory framework that does not hinder innovative new technologies such as VoIP.

Current Status: Vonage’s attempts to compete against traditional telecommunications companies on their own turf (i.e. home wireline telephone) have been hampered by a series of patent lawsuits. In the first suit, Verizon asserted five patents against Vonage, who was forced to

pay approximately \$120 million. Sprint, and later AT&T, also sued Vonage and won \$119 million combined.

These lawsuits and the uncertainty they caused have significantly hurt Vonage in the marketplace. The successful patent lawsuits against Vonage by the larger traditional telecommunications carriers make a full-scale VoIP competitor to the traditional telecommunications companies seemingly unlikely because some of the asserted patents cover the transfer of Internet voice traffic to the PSTN—an essential component for any VoIP company that hopes to compete with traditional telephone companies. However, where VoIP does have the potential to revolutionize communications is around the edges of the network (i.e. IP PBXs) and with online applications that incorporate voice functionality. Currently, there are two extremely important petitions at the FCC, which have the potential to shape innovation in the VoIP arena in the years to come in two very different ways:

Feature Group IP (FGIP) Forbearance Petition: This petition asks the FCC to ensure that providers of Voice-Embedded Internet communications applications be given the assurance that they need to deploy to both end users on the Internet and the PSTN. FGIPs concern was that phone companies were charging them the highest rates possible to allow FGIP's applications to incorporate an end user on the PSTN, making any business plan in involving third party companies and applications that involve communications across the Internet and PSTN virtually impossible.

Embarq Forbearance Petition: This petition requests the Commission eliminate the “Enhanced Service Provider” exemption to interstate access charges, which currently permits ESP VoIP providers to purchase access to the network as any other customer of the telecommunications carrier. A grant of the Embarq petition would make ESPs subject to legacy telecommunications carrier regulation, including access charges. This would halt or significantly curtail many VoIP enabled applications that seek to incorporate end-users on the PSTN.