



Hon. Henry Waxman
Chairman
Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Hon. Joseph Barton
Ranking Member
Committee on Energy & Commerce
2125 Rayburn House Office Building
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Hon. John Rockefeller
Chairman
Committee on Commerce, Science &
Transportation
253 Russell Senate Office Building
Washington, DC 20510

Hon. Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science &
Transportation
253 Russell Senate Office Building
Washington, DC 20510

Dear Chairmen and Ranking Members:

On behalf of the undersigned companies and associations, we write to encourage Congress to pass legislation affirming that all Internet Protocol (“IP”)-based services are subject to exclusive federal jurisdiction, to the extent such services are regulated at all. IP-based technologies and services are the fastest growing segment of the communications industry and one of vital importance to our industry.

Industry is investing more than ever in new, next-generation platforms based on IP technology. These revolutionary IP services, including Voice-over-IP (“VoIP”), upend traditional concepts of location and/or device based services, enabling customers to have a single number that reaches them no matter where they are and what device (phone or computer) they are using. Consumers and businesses are eagerly embracing the new and innovative integrated packages of data, features, and any-distance voice services that IP services make possible. As a result, an ever-increasing proportion of voice traffic will originate or terminate in IP format and on IP networks.

These IP services are designed and built over wide geographic areas without regard to state boundaries. A nationalized approach to IP deployment allows networks to be deployed with common systems, platforms, and processes, and results in efficiencies that provide considerable cost savings for consumers. To continue to develop, however, there must be regulatory certainty for IP service providers, application developers and equipment manufacturers.

The FCC has already determined that IP services should be subject exclusively to federal jurisdiction. In 2004, the Commission held that Vonage's VoIP service is jurisdictionally interstate and subject to the Commission's exclusive jurisdiction.¹ In the Vonage decision, the Commission found it would reach that same conclusion with respect to *any* VoIP service – including those offered by cable companies and other facilities-based VoIP services – that share certain basic characteristics, the most important of which is the offering of a suite of integrated features and capabilities that allow customers to originate and receive voice communications and access those other features and capabilities simultaneously.² This decision was later upheld by the Eighth Circuit Court of Appeals.³ But, despite the FCC's clearly expressed intent to bring regulatory certainty to VoIP service, there continue to be proposals that would permit state regulation, ultimately hurting IP-enabled Internet communications providers and their customers.

Absent Congressional action to confirm exclusive federal jurisdiction, IP services will be subject to a patchwork of 50-plus different regulatory regimes, stifling innovation and the industry's ability to take full advantage of available cost savings. Legislation to re-affirm exclusive federal jurisdiction over IP based services – regardless of technology or provider – would further the national focus on policies to spur continued evolution to more advanced IP and broadband networks, and foster continued development and deployment of new and innovative IP services, as well as of the broadband platforms on which those services depend.

The continuing evolution of IP-based services will create a more competitive environment and will bring new and innovative services to consumers in all areas of the country. For this trend to continue, Congress must ensure that these inherently interstate services are regulated exclusively at the federal level, to the extent these services need to be regulated at all, and reject efforts to apply legacy state telecommunication regulation to the IP world. By doing so, Congress will encourage the continued development and deployment of new and innovative IP services as well as of the broadband platforms on which those services depend.

Respectfully submitted,

AT&T
Google
Microsoft
National Association of Manufacturers
TechAmerica
Telecommunications Industry Association
T-Mobile
Verizon
VON Coalition

¹ *Vonage Holding Corp. Petition for Declaratory Ruling concerning an Order of the Minnesota Public Utilities Comm'n*, Memorandum Op. and Order, 19 FCC Rcd 22404 (2004) (“*Vonage Decision*”).

² *See Vonage Decision*.

³ *Minnesota Public Utilities Comm'n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

Cc: Members of Congress