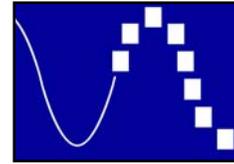


April 11, 2007



Senator Carol Williams  
3533 Lincoln Hills Pt  
Missoula, MT 59802

Dear Majority Leader Williams:

As the nation's leading companies developing and delivering voice innovations over the Internet, we are writing to highlight a new federal court decision affirming exclusive federal regulatory jurisdiction over VoIP services – in direct contradiction to HB 611. The ruling makes clear that HB 611, if enacted, would be in direct violation of federal rules by extending state telecommunication mandates to VoIP.

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 across the country, VoIP competition could save consumers an astonishing \$100 billion over the next 5 years.<sup>1</sup> For Montana consumers, VoIP innovations will deliver new competition, lower prices, and improved ways to communicate.

However, applying Montana's Telecommunication Access Service rules to VoIP, as HB 661 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.

In addition, we are especially concerned that the definition of "Service Provider" in Section 2(8) of HB 611 is overly broad 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, HB 611 defines "service provider" 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. Since many of these services are offered for free, such a mandate would effectively shut out Montana consumers from the exciting and new communications technologies that are now emerging in the marketplace and transforming the way we communicate.

We understand the very laudable goals of ensuring that people with disabilities have access to communications. VoIP is an especially promising technology for the 54 million Americans with

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<sup>1</sup> Micra report (available online at <http://www.micradc.com/news/news.html>) found that VoIP competition can save consumers \$102 billion over the next 5 years.

disabilities – able to provide new benefits not possible in today's legacy phone network. VoIP's ability to converge, voice, video, and data into one application often makes it easier to implement accessibility options not possible previously – like text messaging and conveying sign language over video software. That is why VoIP services are enabling exciting breakthrough advantages for people with disabilities, and should be encouraged and accelerated rather than shut out of the Montana market.

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. As a result, rather than adopting state specific rules for VoIP, last year government leaders in states like California, Florida, Virginia, Georgia, Kentucky, and Colorado all took steps to prevent state regulation of VoIP in order to boost broadband deployment, benefit people with disabilities, and harness VoIP's vast potential for lowering prices while boosting choices and features. We encourage you to follow suit and delay action on HB 611 at this time.

VoIP can play a critical role in boosting broadband demand, putting new tools in the hands of consumers and small businesses to enhance productivity, manage daily affairs, and enjoy leisure pursuits. We look forward to continuing to working with Montana 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 AccessLine, AT&T, BMX, BT Americas, CallSmart, Cisco, Convedia, Covad, EarthLink, Google, iBasis, i3 Voice and Data, Intel, Intrado, Microsoft, New Global Telecom, Openwave, Pandora Networks, PointOne, Pulver.com, Skype, Switch Business Solutions, T-Mobile USA, United Online, USA Datanet, VocalData, Veraz Networks, 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>