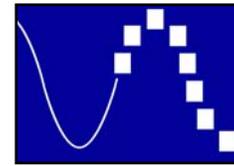


April 8, 2008



The VON Coalition

Senator Kevin Engler
Chair, Senate Commerce, Energy, and the Environment
State Capitol Building
Room 428
Jefferson City, Missouri 65101

Dear Chairman Engler:

The Voice on the Net (VON) Coalition, which represents the nation's leading companies developing and delivering voice innovations over the Internet, respectfully seeks changes to H.B. 1779 in order to ensure that consumers can take full advantage of the power and potential that Internet communication can deliver. This bill, as written could have the effect of preventing Missouri consumers from benefiting from the lower prices and robust services promised by Voice over Internet Protocol technologies.

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 Missouri consumers an astounding \$2.3 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. Further by harnessing VoIP as a broadband driver, just a 7% increase in broadband adoption in Missouri could create nearly 50,000 new jobs². Indeed as the state enters an economic downturn, VoIP is now projected to be the number one job creator of any industry in the country.³

However section 392.550 of HB 1779 would not only stall and stifle these vast consumer benefits, the bill runs counter to federal policy which seeks to promote competition, investment and innovation.

- First, applying state rules to VoIP such as state Universal Service obligations and economic entry barriers, as this legislation contemplates, is strictly prohibited under federal law. In March 2007, 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 cannot 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." More recently, the US District Court for Nebraska relied on the 8th Circuit's holding in the *Vonage Jurisdictional order* and struck down a NE PSC rule that mandated State universal service

¹ Micra report (available online at http://www.micradc.com/news/publications/pdfs/Updated_MiCRA_Report_FINAL.pdf) found that VoIP competition can save consumers in Missouri \$2,319,229,231 over the next 5 years.

² Missouri would see an additional 48,592 jobs from a 7% increase in broadband, according to Connected Nation's State-by-State Summary of the Annual Economic Impact Associated with Accelerating Broadband for Each State http://www.connectednation.com/documents/2008_02_21_TheEconomicImpactofStimulatingBroadbandNationally_AConnectedNationReport_001.pdf

³ The industry leading the way in terms of employment growth over the next few years will be Voice Over Internet Protocol providers (VoIP), according to economic research firm IBISWorld, with average annualized jobs growth of around 19.4 percent through 2012. <http://www.ibisworld.com/pressrelease/pressrelease.aspx?prid=116>

charges on interconnected VoIP. Thus, state legislation applying intrastate telecommunication regulation to VoIP is contrary to the FCC's rules and the decisions of the 8th Circuit, which includes Missouri.

- Second, applying legacy, telephony access charges to Internet communication, in violation of FCC rules, would also stifle consumer benefits and slow broadband adoption in Missouri. Pursuant to the FCC's compensation rules, VoIP providers have not been subject to access charges, but instead have paid cost-based rates for termination of their customer's communications. Applying the access charge regime to innovative VoIP services is unnecessary because incumbent phone companies are already fully compensated for their costs when Internet phone calls are terminated on their networks. However, HB 1779 would fundamentally alter the economic relationship between information and telecommunications service providers by imposing access charges on providers that, heretofore, have purchased telecommunications services as end-users and have built successful business models doing so. 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. There simply is no reason for such a rate-raising, growth-sapping, innovation-reducing policy change.
- Finally, by acting to regulate interconnected VoIP providers, while at the same time *excluding* their services from the definition of "telecommunications service," Missouri places the burdens of regulation on VoIP providers without providing any of the corresponding benefits. Enacting HB 1779, therefore, would be inequitable, run counter to federal communications policy, and would harm to competition, innovation, and consumer welfare far more than the potential benefits of this proposed regulation.

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 – 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, Georgia and elsewhere 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 reject the harmful effects of HB 1779.

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>