Current Intercarrier Compensation Issues Before the FCC and Potential Implications for Voice Peering

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Overview

- **Major FCC overhaul of intercarrier compensation remains unsettled**
- **FCC has initiated several proceedings intended to reform existing intercarrier compensation**
  - **Compensation for ISP-bound traffic, and VoIP traffic, at the heart of those proceedings**
  - **Recent developments concerning access charge liability and Universal Service funding may represent first steps**
- **However, no *comprehensive* reform to date**

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Overview (cont'd)

- **Recent targeted compensation reform proceedings initiated at FCC**
- **FCC Chairman: intercarrier compensation reform possible within six months**
- **Okay, so…**
  - **what are these specific issues?**
  - **what will come of these recent proposals?**
  - **what implications (if any) for peering?**

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Primary Components of Intercarrier Compensation

- **Different forms of intercarrier compensation**
  - **Access Charges**
  - **Reciprocal Compensation**
  - **Universal Service**

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Primary Components of Intercarrier Compensation

- Access Charges
  - Termination and origination charges for toll, or long distance, traffic delivered to local telco networks
  - Legacy compensation scheme arising out of break up of Bell System
  - Rate variances based upon end points of call, and status of terminating LEC
    - Interstate
    - Intrastate
    - Rural telco

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Primary Components of Intercarrier Compensation

- Reciprocal Compensation
  - Transport and termination charges associated with the exchange of "local" traffic
  - Primary component of network interconnection compensation under 1996 Telecom Act
  - Rate variances based upon type of traffic
    - Voice traffic
    - ISP-bound traffic
  - Significant disputes arising over what constitutes "local" traffic

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Primary Components of Intercarrier Compensation

- **Universal Service**
  - **Funding and subsidies for carriers, both incumbent and competitive, operating in "high cost" and rural areas**
  - **Form of indirect intercarrier compensation**
  - **All telecom and interconnected VoIP providers pay on interstate "telecommunications" end user revenue**

Select Intercarrier Compensation Issues Before the FCC

- **Recent Actions at FCC Raise Some New (and Some Old) Issues**
  - **Application of Access Charges to VoIP**
  - **Phantom Traffic**
  - **Traffic "Pumping" Arrangements**
  - **Universal Service Funding Caps**
  - **ISP-bound Traffic "Interim" Rate Proposal**

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Select Intercarrier Compensation Issues Before the FCC

- **Application of Access Charges to VoIP**
- **Several current proceedings considering the following questions:**
  - **Access Charge "Avoidance" or "Arbitrage" Schemes**
    - **Whether access charges apply to IP-to-PSTN voice traffic terminated on the PSTN**
  - **Prohibitions on "Phantom Traffic"**
    - **Whether traditional PSTN call signaling parameters apply to voice over IP traffic terminated on the PSTN**

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Select Intercarrier Compensation Issues Before the FCC

- **Traffic "Pumping" Issues**
  - **Rural telcos driving traffic to their networks**
  - **Partnerships with conference calling and call aggregation companies**
  - **Toll, or long distance, traffic volumes increase dramatically**
  - **Results: exponential increase in terminating access revenues for rural telcos**

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Select Intercarrier Compensation Issues Before the FCC

- **Universal Service Funding Caps**
  - Recent problem: dramatic growth in USF high cost funds
    - Competitive carriers now receive funding
    - Competitors operating in rural areas receive subsidies based upon ***incumbents*** costs and revenues
    - Intercarrier compensation likely to reduce rural telco access revenue; to be offset by increase in USF funding
    - Support to competitors in rural areas would increase dramatically if rural telco access rates decline
  - FCC's solution: Cap on funding to competitors in high cost / rural areas

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Select Intercarrier Compensation Issues Before the FCC

- **Universal Service Funding Caps (cont'd)**
  - FCC rationale
    - rural telco revenue from access charges significant % overall revenue
    - intercarrier compensation likely to reduce access charges
    - would increase rural carriers' reliance on USF
  - Ramifications
    - allow rurals to offset lost revenue from lower access charges with increased USF funding
    - simultaneously preventing competitors from receiving additional USF support
  - "Critical first step"
    - FCC believes decision will help control growth of USF, while providing a basis to reduce rural telco access rates

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Select Intercarrier Compensation Issues Before the FCC

- **ISP-bound Traffic "Interim" Rate – Final Action Within 6 Months?**
  - 2001 - FCC establishes an "interim" rate of $0.0007 per mou for terminating ISP-bound traffic
  - 2002 - Federal appeals court rejects FCC's legal rationale, directs the FCC to develop new rationale, but declines to "vacate" the decision.
    - $.0007 rate remains in effect to this day
  - 2008 - Six years after the federal appeals court rejected the rationale, no further FCC decision to address the court's concerns
    - competitive LECs sued to force the FCC to act on final rate
  - May, 2008: FCC lawyer asks court to hold off because Chairman Martin believes agency can render a decision within next six months

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Select Intercarrier Compensation Issues Before the FCC

- **Other Developments**
  - **Coalition of carriers reportedly to offer new reform proposal**
  - **AT&T, Verizon, Level 3, and Global Crossing**
    - **Comprehensive intercarrier compensation proposal**
    - **FCC jurisdiction (for compensation purposes) over all VoIP traffic**
    - **Reportedly considering single, unified rate**

  - **No public details available at this time**
  - **Tied to (?) Chairman's commitment to resolve intercarrier compensation issues in next 6 months**

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Implications for Voice Peering

- **Do federal regulatory compensation rules apply to voice peering?**
  - **FCC has begun to regulate voice over IP providers**
  - **“Interconnected VoIP” defined as possessing four essential functions:**
    1. **Enables real-time two-way voice service**
    2. **Requires a broadband connection**
    3. **Requires IP compatible CPE (customer premises equipment)**
    4. **Permits users to send *and* receive calls to the PSTN**

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Implications for Voice Peering

- **Potential application…**
- **VoIP services that meet all four elements classified as "interconnected VoIP"**
- **Subject to certain FCC regulations:**
  1. **911**
  2. **Number porting**
  3. **Network surveillance (wiretapping)**
  4. **Customer privacy protections (CPNI)**
  5. **Voice relay services**
  6. **Universal service fund *contributions* (not subsidies)**
- **Interconnected VoIP service providers not directly subject to access charges and reciprocal compensation**

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Implications for Voice Peering

- **Potential application…**
- **Key to <u>avoiding</u> FCC regulation as interconnected VoIP**
  - **ability to send and receive calls to/from PSTN**
- **No PSTN interconnection (pure peering) =**
  - **not subject to FCC jurisdiction**
- ***Some* PSTN interconnection (sending *or* receiving calls to PSTN) =**
  - **probably not subject to FCC jurisdiction**

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Implications for Voice Peering

- Rural telcos have significant political support in Congress
- FCC decision to cap USF high cost fund may signal attempts to reduce rural telco access charge rates
- But, at what cost?
- FCC may subject interconnected VoIP to explicit intercarrier compensation (access charges and reciprocal compensation)
- Elements of potential regulation
  - Calling Party Number (CPN), Jurisdictional Information Parameters (JIP), or other call identifying information, must be passed on all calls
  - VoIP calls terminating on the PSTN subject to LEC's terminating access charges

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Implications for Voice Peering

- Rural and incumbent telcos will continue to pursue rules that require new entrants to pay for termination to the PSTN
- FCC unable to force providers to exchange on bill and keep terms
  - ISP-bound traffic's interim rate originally intended as transition to bill and keep
  - However, FCC has (to date) abandoned attempts to impose permanent bill and keep regime
- Thus, bill and keep only where both parties consent, and thru peering arrangements, like the Stealth exchange
- Peering will continue to present opportunities to avoid PSTN termination costs
  - But where traffic needs to reach the PSTN, there will likely continue to be *some cost* associated with such termination.
  - How those costs are assessed, distributed, and absorbed, will remain contentious

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Q&A

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