

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Developing a Unified Intercarrier  
Compensation Regime

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CC Docket No. 01-92

**COMMENTS OF  
CTIA – THE WIRELESS ASSOCIATION®**

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To: The Commission

**COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association®<sup>1</sup> (“CTIA”) submits these comments in response to the Missoula Plan advocates’ “Comprehensive Solution for Phantom Traffic.” CTIA opposes the Missoula Plan’s Phantom Traffic Proposal because it fails to address the billing disputes underlying the phantom traffic debate and because no “solution” to the problem of phantom traffic can be “comprehensive” without full unification of the interconnection and intercarrier compensation system.<sup>2</sup> CTIA instead supports common sense interim steps – already supported by a broad cross-section of the

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<sup>1</sup> CTIA – The Wireless Association® (formally known as the Cellular Telecommunications & Internet Association) is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> With respect to wireless-originated calls, the real target of the Missoula Plan’s phantom traffic proposal is not phantom traffic, but rather the Commission’s well-established intraMTA rule for wireless to wireline calls. The overwhelming majority of wireless traffic delivered to rural ILECs without call identifying information is intraMTA traffic that under the Commission’s long standing rules is entitled to reciprocal compensation, not access. *See* In re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, T-Mobile, *et al.*, Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, *Declaratory Ruling and Report and Order*, 20 FCC Rcd. 4855 (rel. Feb. 24, 2005) (“T-Mobile Order”). In reality, those that support the Missoula Plan’s Phantom Traffic Proposal are attempting to circumvent the Commission’s rules that require these calls to be terminated under the reciprocal compensation rules.

industry – that will reduce the likelihood of phantom traffic while the Commission continues to consider meaningful, forward-looking reforms to the intercarrier compensation system.

## **I. INTRODUCTION AND OVERVIEW**

Phantom traffic is emblematic of an intercarrier compensation system that is increasingly incompatible with the multi-dimensional, jurisdictionally agnostic telecommunications and information service marketplace. Only fundamental reforms resulting in full unification of the intercarrier compensation system, such as CTIA’s Mutually Efficient Traffic Exchange (“METE”) proposal,<sup>3</sup> can fully address the problem of phantom traffic. CTIA, therefore, agrees with other commenters, such as AT&T, which have argued that the “best way to address phantom traffic is to, as quickly as possible, unify terminating compensation rates and structures[.]”<sup>4</sup>

Just like rural ILECs, wireless carriers often receive so-called “phantom traffic” and must terminate calls for which terminating compensation is owed to the wireless carrier, but the wireless carrier is unable to bill for this traffic because the originating carrier is not Signaling System 7 (“SS-7”) capable or routes its originating traffic in a manner that does not transfer billing information. Phantom traffic often occurs because of the use of intermediate tandems by ILECs, ILECs’ lack of SS-7 capabilities, ILECs’ misrouting of intraMTA traffic through interexchange carriers, and ILECs’ failure to utilize the authority granted by the *T-Mobile Order*<sup>5</sup> to negotiate traffic exchange

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<sup>3</sup> See Comments of CTIA – The Wireless Association® in CC Docket No. 01-92 (filed May 23, 2005).

<sup>4</sup> Letter from Brian Benison, Associate Director – Federal Regulatory, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 01-92 (Apr. 10, 2006) (“AT&T Ex Parte”).

<sup>5</sup> See *T-Mobile Order*.

arrangements with wireless carriers incorporating traffic allocation factors. Additional traffic labeling requirements will have minimal impact unless carriers take steps to cure these deficiencies.

CTIA, nonetheless, generally supports the proposed rules advocated at various times by USTelecom, T-Mobile, AT&T Corp., Verizon Corp., Qwest, BellSouth and others detailing the responsibilities of carriers exchanging traffic to deliver signaling and call identifying information to tandem providers and terminating carriers. This information will facilitate the creation of accurate billing records and identification of parties responsible for payment.<sup>6</sup> Probably the most effective way for the Commission to address this issue is by clarifying what does not constitute “phantom traffic”: (1) Traffic that contains the appropriate call identifying information for the type of call yet carriers dispute the appropriate rate based on differing interpretations of existing FCC rules (*e.g.*, intraMTA calls subject to reciprocal compensation are not “phantom traffic”); or (2) Traffic without correct signaling because of limitations of the network technology in use, especially when these limitations are attributable to routing specified by the rural ILEC.<sup>7</sup> CTIA does not oppose an obligation on carriers to transmit call originating information pursuant to relevant Commission rules and industry standards, but CTIA does not support mandating any requirements that the industry standards groups have not mandated.<sup>8</sup> In addition, CTIA supports imposing an obligation on tandem transit providers, or any other

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<sup>6</sup> See A USTelecom Proposal for Commission Action on Phantom Traffic (Nov. 2005) (“USTelecom Proposal”) (attached to letter from Jeffrey S. Lanning, USTelecom, to Marlene H. Dortch, FCC, CC Docket No. 01-92, filed November 10, 2005).

<sup>7</sup> See *id.*

<sup>8</sup> See *id.* at 3-4. CTIA, for example, continues to oppose *mandatory* population of the Jurisdiction Information Parameter (JIP), which is not required under industry standards and often will not identify the jurisdiction of a wireless call. See Letter from L. Charles Keller, Counsel for Verizon Wireless, to Marlene H. Dortch, FCC, CC Docket No. 01-92, filed September 13, 2005, at 2-3.

provider in the transmission chain, to pass along all call origination information received from the originating carrier, or subsequent carrier in the chain, without alteration.<sup>9</sup> CTIA opposes cumbersome and costly changes, such as those proposed by the Missoula Plan supporters, that will be overtaken by more fundamental reforms.

At the same time that CTIA supports these interim steps, CTIA remains committed to working with other parties interested in meaningful, forward-looking reforms to the intercarrier compensation system. Rather than acting on a single niche proposal like the rural ILEC-oriented Missoula Plan, which is opposed by competitive local exchange carriers (“CLECs”), wireless providers, cable-based carriers, consumer representatives and even some ILECs, the Commission should encourage the development of more consumer-oriented industry consensus proposals, along the lines of the METE Proposal.

## **II. OBLIGATIONS OF CARRIERS UNDER THE MISSOULA INTERIM PROPOSAL**

The Missoula Plan’s “Comprehensive Solution for Phantom Traffic” includes call signaling rules and exceptions, special enforcement rules, an interim process to be implemented immediately, and a permanent uniform process for the generation of call detail records. In their most recent filing, the Plan supporters request that the Commission: (1) implement the Plan’s call signaling and special enforcement procedures; (2) confirm that carriers sending traffic via indirect interconnection arrangements are responsible for paying terminating carriers applicable intercarrier compensation charges and transit service providers are not; and (3) extend the requirements of the *T-Mobile*

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<sup>9</sup> See USTelecom Proposal at 5.

*Order* to interconnection arrangements between ILECs and wireline carriers. In addition, the Missoula Plan supporters have supplemented the Missoula Plan’s initial proposals with “Interim” and “Uniform” proposals.

CTIA understands that, under the Missoula Plan and its supplements, wireless carriers are not under an obligation to create or transmit call detail records. Rather, that obligation is imposed on tandem transit providers, with whom wireless carriers interconnect. CTIA also understands that, under the Missoula Plan, call signaling is not determined by the use of the Jurisdictional Indicator Parameter (“JIP”) field, but rather through the use of the number assigned to the calling party to determine the proper jurisdiction of the call.<sup>10</sup> Moreover, CTIA understands that the Interim Process intends to extend the interconnection negotiations under the *T-Mobile Order* to negotiations between incumbent LECs and other wireline carriers, but does not extend an obligation to wireless carrier negotiations with other wireless and wireline competitors. To the extent that CTIA misunderstands any of these provisions, the Missoula Plan advocates should clarify their proposal in the record.

### **III. THE FCC SHOULD REITERATE EXISTING INTERCONNECTION AND INTERCARRIER COMPENSATION OBLIGATIONS**

Since no changes have been requested to the existing interconnection and intercarrier compensation obligations, the Commission should confirm that its existing rules and obligations will remain unchanged in any order that details the responsibilities of carriers to deliver signaling and call identifying information to tandem providers and

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<sup>10</sup> Missoula Plan at 56. Rural ILECs themselves use the geographic area code associated with the called party’s phone number to determine the jurisdictional nature of the call. For example, if a wireless customer with an out-of-state phone number is located within the boundary of the wireline caller’s geographic “rate center”, an intermodal wireline to wireless call will be rated as an interstate call even though both endpoints of the call are within the same state.

terminating carriers. Specifically, the Commission should confirm the continued validity of the intraMTA rule, carriers' rights and obligations surrounding rating and routing, the status of dialing parity, and the rights and obligations of wireless carriers in the absence of an interconnection agreement to complete calls through indirect interconnection.

**A. The Commission Should Confirm the Continued Validity of the IntraMTA Rule**

The Commission must maintain the intraMTA rule, codified in Section 51.701(b)(2) of the rules,<sup>11</sup> if it does not adopt CTIA's METE Proposal or another reform mechanism that fully unifies intercarrier compensation payments or otherwise adopts a regime that requires carriers to distinguish between local and non-local traffic, like the Missoula Interim Process. The Commission also should confirm that the intraMTA rule applies to intraMTA traffic that the originating carrier elects to route through a transiting carrier, including an IXC.

When the Commission adopted the intraMTA rule, it correctly concluded that specific wireless local service areas for intercarrier compensation purposes must be established because wireless service areas are federally-mandated, vary in size and do not match wireline local calling areas that state regulators typically base upon the location of wireline rate centers.<sup>12</sup> Wireless carrier commenters have emphasized in the past that the intraMTA rule is necessary to protect the integrity of the wireless market.<sup>13</sup>

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<sup>11</sup> 47 C.F.R. § 51.701(b)(2).

<sup>12</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report & Order, 11 FCC Rcd 15499, 16014 (1996) (subsequent history omitted).

<sup>13</sup> See, e.g., Reply Comments of Nextel Communications Inc., CC Docket No. 01-92, at 28-30 (filed Jul. 20, 2005); Reply Comments of Dobson Cellular Systems, CC Docket No. 01-92, at 7-9 (filed Jul. 20, 2005).

Opponents of the intraMTA rule acknowledge that the difference in local calling areas for wireline and wireless services is at the heart of the dispute regarding how carriers should be compensated for transporting and terminating LEC-CMRS calls.<sup>14</sup> But rather than “singl[ing] out wireless carriers for different treatment,”<sup>15</sup> the intraMTA rule simply ensures that wireless customers are not subjected to toll charges for intermodal calls made within their wireless carrier’s local service area.<sup>16</sup>

The intraMTA rule is clear on its face and has been upheld by the U.S. Court of Appeals for the Tenth Circuit – traffic to or from a wireless network that originates and terminates within the same MTA is subject to reciprocal compensation obligations.<sup>17</sup> The Commission must affirm that this obligation is not affected if an ILEC decides to route an intraMTA call through an intermediate IXC acting as a transit carrier. To hold otherwise would validate the unilateral attempts of some rural LECs to evade the intraMTA rule and cause their customers to bear the higher costs associated with access charges rather than receive the benefits from applying the reciprocal compensation rules to intraMTA intermodal traffic.

**B. ILECs Are Obligated to Load Wireless Carrier Numbers With Different Rating And Routing Points**

The ability of wireless service providers to compete effectively can be thwarted by ILECs’ refusals to load wireless carrier numbers with different routing and rating

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<sup>14</sup> See, e.g., Reply Comments of Qwest Communications, CC Docket No. 01-92, at 50-51 (filed Jul. 20, 2005); Reply Comments of Rural Alliance, CC Docket No. 01-92, at 126-27 (filed Jul. 20, 2005).

<sup>15</sup> Reply Comments of USTA, CC Docket No. 01-92, at 48 (filed Jul. 20, 2005).

<sup>16</sup> The intraMTA rule also ensures that wireline customers are not subject to toll charges for intermodal LEC-CMRS calls made within the CMRS carrier’s MTA.

<sup>17</sup> 47 C.F.R. § 51.701(b)(2); *Atlas Tel. Co. v. Oklahoma Corp. Comm’n*, 400 F.3d 1256, 1264 (10<sup>th</sup> Cir. 2005). RLECs are not precluded from transiting traffic through IXCs and recovering access charges as a result. RLECs, however, must also satisfy their obligations to compensate wireless terminating carriers for intraMTA calls.

points into their switches and route calls to those numbers.<sup>18</sup> For example, Sprint notes that its ability to provide facilities-based wireless services and compete directly with incumbent carriers in rural areas “is greatly inhibited because, absent the establishment of direct connections, many incumbents refuse to recognize the local telephone numbers Sprint has acquired.... Few residents of rural areas will consider Sprint’s service if [they] must incur toll charges in calling a Sprint wireless customer who is located across the street.”<sup>19</sup> Similarly, Dobson Cellular and American Cellular explain that “[t]o compete with the ILECs, CMRS providers and CLECs must be able to provide local numbers in any ILEC rate center where their customers demand them; otherwise calls to their customers from the ILEC network will not be rated as local.”<sup>20</sup> Although Sprint raised this issue more than four years ago in their Petition,<sup>21</sup> the Commission has yet to take any action that would curb incumbent carriers’ anti-competitive behavior.

In effect, wireline carriers refuse to acknowledge that a wireless carrier’s licensed service area typically does not correspond with a wireline carrier’s local calling area, but rather may overlap portions of the local calling areas of multiple wireline carriers and that as long as these calling areas are within the same MTA, the FCC’s reciprocal compensation rules apply for the exchange of traffic. To foster efficient interconnection, the Communications Act permits carriers to interconnect directly or indirectly.<sup>22</sup>

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<sup>18</sup> See, e.g. Comments of Sprint, CC Docket No. 01-92, at 17-19 (filed May 23, 2005) (“Sprint Comments”); Comments of Western Wireless and Suncom, CC Docket No. 01-92, at 31-37 (filed May 23, 2005); Comments of Dobson Cellular Systems, CC Docket No 01-92, at 5-7 (filed May 23, 2005) (“Dobson Comments”).

<sup>19</sup> Sprint Comments at 17.

<sup>20</sup> Dobson Comments at 5-6.

<sup>21</sup> Sprint Petition for Declaratory Ruling, CC Docket No. 01-92 (filed May 9, 2002) (“Sprint Petition”).

<sup>22</sup> See 47 U.S.C. §251.

Because it is often the most efficient solution, wireless carriers frequently elect to route calls through a single ILEC tandem rather than directly interconnecting with each ILEC.

CTIA and other parties have explained repeatedly over the last three years that carriers have a legal right to obtain local numbers with different routing and rating points in each local calling area where they provide facilities-based service, without interconnecting directly with the ILEC serving each local area.<sup>23</sup> This has been the industry's widespread practice for over a decade, so there can be no argument that such routing and rating is not technically feasible, and it is well established that it is often more efficient for wireless carriers to have telephone numbers with separate routing and rating points than it is to replicate the ILEC legacy network in order to interconnect directly everywhere or to treat local calls as toll calls and pay access charges.<sup>24</sup> Further, the Commission's technology-neutral policies do not require wireless carriers to deny their 228 million customers the benefits of competition and innovative technologies by implementing inefficient interconnection practices simply to make them operate like wireline carriers.<sup>25</sup> If the Commission chooses to adopt short-term reforms like the Interim Process on the way to more meaningful reforms like the METE proposal, it must preserve the existing rights of wireless carriers and subscribers.

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<sup>23</sup> See, e.g., CTIA at 29-31; T-Mobile at 40-43; Dobson Cellular at 3-7; Western Wireless at 31-37; Sprint Reply Comments, CC Docket No. 01-92, DA No. 02-1740 (Aug. 19, 2002).

<sup>24</sup> CTIA at 29-30; T-Mobile at 40-41; Dobson Comments at 3-7; Western Wireless at 31-37.

<sup>25</sup> There is no technical impediment to an ILEC expanding its "rate center" or local calling area to include an entire MTA. Indeed, rate center consolidation has been a trend in many states as state regulators seek to conserve numbering resources and provide customers with the benefits of expanded local calling areas.

**C. The Commission Must Ensure That Wireless Carriers Dialing Parity Rights Are Recognized By Wireline Carriers**

Another serious problem that can hamper wireless carriers' ability to effectively serve their customers and compete against their wireline counterparts is dialing parity. Specifically, many LECs refuse to provide wireless carriers with local dialing parity, even though parity is mandated by statute and Commission regulation.<sup>26</sup>

Section 251(b)(3) of the Act explicitly mandates that LECs provide local dialing parity to competitive providers of telephone exchange services.<sup>27</sup> Although the Commission long ago concluded that wireless carriers, as providers of exchange service, are entitled to dialing parity,<sup>28</sup> some rural LECs persist in asserting that wireless carriers may obtain dialing parity only if an interconnection agreement is executed between the wireline and wireless carriers. Consequently, wireless carriers often are compelled to enter into interconnection agreements with unfavorable terms and conditions if they want to effectively enter these markets without lengthy delays. Neither the Act nor the Commission, however, conditions dialing parity for wireless carriers on the existence of an interconnection agreement,<sup>29</sup> Moreover, creating such a condition would impose a restriction on wireless carriers' unconditional right to indirect interconnection and would thus conflict with the Act. Accordingly, the Commission, in adopting interim steps toward comprehensive intercarrier compensation reform, must reiterate that ILECs are

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<sup>26</sup> Nextel Partners at 14-17.

<sup>27</sup> 47 U.S.C. § 251(b)(3); 47 C.F.R. § 51.207.

<sup>28</sup> *Local Competition Second Report and Order*, 11 FCC Rcd 19392, 19427-29 (1996) (subsequent history omitted).

<sup>29</sup> See *TSR Wireless, LLC v. US WEST Communications, Inc.*, 15 FCC Rcd 11166 (2000) (concluding that the Commission's interconnection pricing rules can be applied to wireless traffic under Section 332 of the Act and thus do not require a interconnection agreement pursuant to Section 252 of the Act), *aff'd Qwest Corp. v. FCC*, 252 F.3d 462 (D.C. Cir. 2001).

required to provide local dialing parity to wireless carriers within the wireless carriers' local calling areas and that an interconnection agreement is not a prerequisite for dialing parity.

**D. Wireless Carriers Should Not Be Required to Pay Compensation in the Absence of a Request to Negotiate an Interconnection Agreement**

In their *T-Mobile Order*, the Commission specifically repudiated attempts by some incumbent LECs to force wireless carriers to pay exorbitant terminating compensation by default.<sup>30</sup> By filing “wireless termination tariffs” some incumbent LECs attempted to impose compensation obligations on non-access CMRS-LEC traffic in the absence of an interconnection agreement or a request for negotiation of an interconnection agreement. The *T-Mobile Order*, however, prohibited wireless termination tariffs on non-access traffic and made clear the Commission’s preference for negotiated interconnection agreements between CMRS carriers and LECs.<sup>31</sup> The Missoula Interim Process, however, seeks to “confirm that carriers sending traffic via indirect interconnection arrangements, i.e., using tandem transit services, are responsible for paying terminating carriers applicable intercarrier compensation charges.” That provision appears to eviscerate of the Commission’s holding in the *T-Mobile Order* that wireless carriers do not owe compensation to terminating carriers until the terminating carrier issues a bona fide request under the Act. To maintain the integrity of the Commission’s decision in the *T-Mobile Order*, the Commission should either reject that provision of the Missoula Interim Process or clarify that it does not supersede application of the *T-Mobile Order* to wireless carriers.

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<sup>30</sup> T-Mobile Order at ¶¶ 14-16.

<sup>31</sup> *Id.* at ¶¶ 14-15.

**IV. NEW COMPLAINT AND ENFORCEMENT PROCEDURES ARE UNNECESSARY, UNREALISTIC, AND BURDENSOME**

CTIA opposes the Missoula Plan's proposed new phantom traffic enforcement procedures, which are unnecessary at best, and prone to abuse at worst. Existing enforcement procedures under section 208 of the Act can efficiently and effectively address alleged violations of any new phantom traffic rules without burdening the Commission with new rules and procedures. Further, the proposed new rules are particularly prone to abuse. One of the proposed new rules would require that "chronic" violators of the phantom traffic rules interconnect directly with terminating carriers.<sup>32</sup> Not only would such a requirement be contrary to the Act and would likely result in inefficient interconnection between carriers, but it would also be likely to result in costly and protracted litigation.

**V. WIRELESS CARRIERS MUST BE COMPENSATED FOR TERMINATING INTERMTA TRAFFIC**

The Missoula Plan seeks to facilitate the billing of unbilled traffic, yet it fails to adequately address interMTA access traffic that terminates on a wireless carrier's network. Under the Interim Process, wireless carriers would be subject to the standards developed by the Ordering and Billing Forum ("OBF") in the Multiple Exchange Carrier Access Billing ("MECAB") standards document.<sup>33</sup> However, neither the Interim Process nor the MECAB provide for recovery of access charges by wireless carriers. While the MECAB billing record provides adequate support for billing intramodal traffic, it does not provide a way to enforce recovery of those charges. Since wireless carriers are prohibited from filing tariffs, absent Commission action, they have no way to recover the

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<sup>32</sup> *Id.* at V.C.4.c.

<sup>33</sup> Missoula Ex Parte at 9.

charges they are entitled to under the Act and the Commission's rules. If the Missoula Interim Process is adopted as a step toward true intercarrier compensation reform, the Commission must ensure that the plan doesn't discriminate against wireless carriers. To that end, the Commission should establish a rule requiring carriers to pay access charges for interMTA calls terminated to wireless carriers.

## **VI. CTIA OPPOSES MANDATORY PAYMENT FOR CALL DETAIL RECORDS**

A particularly troubling part of the Missoula Plan deals with the use of call detail records. Under the Missoula Plan, telephone numbers are used to determine whether switched access or reciprocal compensation rates are appropriate for a given call.<sup>34</sup> Further, the Interim Process requires tandem transit providers to generate and pass call detail records to terminating carriers, and allows tandem transit providers to continue to charge existing rates for the call detail records they are supplying.<sup>35</sup> In essence, this forces terminating carriers to purchase call detail records from tandem transit providers, even if the terminating carriers' billing systems are not configured to derive any benefit from call detail records. Under a more fundamental reform proposal, one in which the rates for termination are unified, such a system in the interim would prove to be an unnecessary and costly step toward a truly "unified intercarrier compensation regime."

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<sup>34</sup> *Id.* See also, *fn.*10.

<sup>35</sup> *Id.* at 9-11.

## VII. CONCLUSION

CTIA remains committed to realizing true intercarrier compensation reform in the form of a unified rate structure, such as that proposed in the METE plan. In the interim, CTIA supports commonsense steps – already supported by a broad cross-section of the industry – that will properly define and reduce the likelihood of “true” phantom traffic while the Commission continues to consider meaningful, forward-looking reforms. CTIA opposes the Missoula Plan’s phantom traffic and other intercarrier reform proposals, which will not adequately address problems with the current intercarrier compensation system.

Respectfully submitted,

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