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17 June 2004

By Federal Express

Shirley Soehn
Executive Director, Telecommunications
Canadian Radio-television and
Telecommunications Commission
Les Terrasses de la Chaudière
Central Building
1 Promenade de Portage
Gatineau, [Hull], Quebec J8X 4B1
CANADA

**Re: Regulatory Framework for Voice Communications
Services Using Internet Protocol
PN 2004-2
Comments of pulver.com**

Dear Ms. Soehn:

Enclosed for filing in the above-referenced proceeding is the Comments of pulver.com. Please note that Jeff Pulver, president of pulver.com, would like to participate in the public consultation, scheduled for 21-22 September 2004.

Please contact the undersigned if you have any questions.

Sincerely,



Glenn S. Richards

Enclosures

Document #: 1409787 v.1

**Before the
CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS
COMMISSION
Ottawa, Ontario**

**Regulatory Framework for Voice)
Communications Services Using)
Internet Protocol)**

PN 2004-2

COMMENTS OF PULVER.COM

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June 17, 2004

II. BACKGROUND

5. In the Telecom Public Notice, the Commission examines issues relating to voice communications services making use of Internet Protocol (referred to as “VoIP” services). The Commission seeks comment on the appropriate regulatory framework for VoIP services that utilize telephone numbers based upon the North American Numbering Plan and provide access to or from the public switched telephone network (“PSTN”). It is the Commission’s preliminary view that these characteristics of VoIP services are functionally the same as circuit switched voice services and should be subject to the existing regulatory framework. The Commission notes that the current regulatory structure distinguishes between ILECs, CLECs, resellers and wireless carriers; and that the regulatory obligations imposed on those entities local service should similarly be imposed upon their local VoIP services.

6. In addition, the Commission preliminarily finds that local VoIP service providers should be required to provide 9-1-1 and E-9-1-1 service, comply with privacy safeguards and contribute to should be required to contribute to universal service programs to subsidize high cost residential services in rural and remote areas.

7. The Internet is a global network that has no national borders and provides instant connectivity to individuals and services. The Internet is one of the greatest drivers of consumer choice, technical innovation, and economic development. This Commission has generally kept the Internet free from the regulatory obligations applied to traditional telecommunications services and networks.

III. DISCUSSION

A. A Rare Opportunity to Create the Right Incentives and Deregulatory Paradigm

8. The Commission has the opportunity to get a regulatory structure in place that will shape the future of communications, allow new technologies and services to emerge, enable traditional telecommunications and emerging communications entities to cooperate and compete, establish the right incentives to ensure investment in and deployment of networks, infrastructure and equipment, and empower consumers to control their own communications experience. The Commission has the power to ensure that innovation in IP-based communications flourishes, so that rapid deployment, adoption, interoperability and ubiquity of IP-based communications emerges, and so that Canada may lead the way in realizing the full promise of IP-based communications. In doing so, the Commission should adhere to two core principles: (1) do not regulate unless necessary; and (2) ensure that no entity can leverage its market power to stifle choice and innovation. With these principles in mind, there is no need to impose legacy regulatory structures on the new and emerging IP-based applications and services, whether provided by new companies or incumbent telecommunications carriers, but there

is a need to ensure that no entity can wield monopoly control over a facility, a market, or a customer to thwart innovation and consumer choice.

9. The default assumption should be that a IP-based provider need not be regulated until it is demonstrated that the entity is violating the social good, interfering with the consumer's ability to either access the application of her choosing or to attach personal devices of her choosing, or is otherwise behaving in a monopolistic or anticompetitive manner. While virtually no regulation is needed under this scenario in this highly competitive market, the Commission should ensure that application service providers ("ASPs") have reasonable access to, and can make full use of, last-mile transmission facilities. Dial-up, DSL, wireless, and cable modem Internet access services all utilize bottleneck local network facilities and infrastructure. Until we find a technology that affords open access to limitless capacity for all consumers and service providers, there will always be some degree of imperfect competition in last-mile access. We may have a virtual infinite supply of applications and content, but these applications and content are only guaranteed if they can access the physical transmission facilities upon which every communications application must ride.

10. Voice as an Application. For regulatory purposes, with IP technology, voice is simply an application that should not be subject to the host of regulations that should be applied last mile access providers. Customers' devices no longer need be managed by individual service providers and voice can be accessed by end users just as any other application. Technological neutrality and the concept of voice as an application suggests that voice could always be considered an application, regardless of technology or delivery medium, and regardless of whether we are utilizing an IP-based or circuit-based network.

11. VoIP is "disruptive communications" in the most positive sense. IP-based communications allow for "open" solutions, with no barriers to entry and no relation to geography. IP-based communications are capable of empowering users to control their own communications experience. There, however, is a danger that VoIP simply becomes nothing more than a POTS replacement, and, if that is all VoIP becomes, consumers will not be much better off than today.

12. Today, we can only glimpse a hint of the IP-based communications future. Personal and enterprise IM and "presence" continue to grow and empower users. Social networking is helping to supplement business and social mixers. Open source communications is disrupting the vendor marketplace. With push-to-talk, we are rediscovering the walkie-talkie of our youth. Wi-Fi VoIP is disrupting mobile communications. We do not yet know the full potential and promise of IP-based communications. Our children will be dreaming that up if we give them the tools and latitude to innovate and evolve the ways we communicate.

13. VoIP has essentially emerged as the "killer application" and, arguably, the first great driver of broadband. Open IP-based communication has already enabled early

adopters, carriers and enterprises to interconnect directly as peers. End users have access to numerous alternative solutions. Customers can utilize multiple providers as well as enterprise or end user systems. End users can attach a variety of hardware and software including their own “switching” from varying locations -- blurring demarcation points.

14. The Commission need not impose archaic, onerous and unnecessary regulations and oversight on any IP-based applications. Voice, data, video, instant messaging, presence, and other similar services can readily be recognized as non-telecom applications. Non-regulation should apply to all IP-based providers, whether they are new companies or traditional telecommunications carriers, including incumbents local carriers, that may be attempting to transition to IP networks and services. The transmission paths, however, used to provide these applications would have to remain subject to regulatory oversight. While there are conceivably an infinite number of IP application providers, economics and technology logically limit the number of last-mile access providers. Therefore, competition, alone, would be an insufficient check on an entity’s market power or monopoly control over an essential choke point in the network. Thus, regulatory oversight becomes, at times, a necessary substitute for a competitive market.²

15. The Commission should herein confirm that peer-to-peer, Internet communications products that do not touch the PSTN, such as Pulver.com’s Free World Dialup, may proceed unfettered by unnecessary government intrusion. pulver.com agrees with the US Federal Communications Commission’s finding in the *pulver.com Order* that computer-to-computer IP-based communications that do not touch the PSTN are not telecommunications services. The ability to store files, to establish web pages, to cache information obtained from the Internet, and to provide similar services fall within the definition of retail Internet service, whether the service provider is purchasing transmission facilities from a third party or using its own facilities.

16. In order to increase the capabilities, ubiquity and value of IP-based communications, IP-based communications providers will need to transfer calls between private networks and the public Internet and the PSTN. The terms of this interconnection

a. _____

² In fact, the North American Free Trade Agreement compels Canada to ensure that a telecom carrier cannot wield monopoly control over last-mile bottlenecks to preclude the provisioning of competitive enhanced services. Article 1305 requires that

where a Party maintains or designates a monopoly to provide public telecommunications transport networks or services, and the monopoly, directly or through an affiliate, competes in the provision of enhanced or value-added services or other telecommunications-related services or telecommunications-related goods, the Party shall ensure that the monopoly does not use its monopoly position to engage in anticompetitive conduct in those markets, either directly or through its dealings with its affiliates, in such a manner as to affect adversely a person of another Party. Such conduct may include cross-subsidization, predatory conduct and the discriminatory provision of access to public telecommunications transport networks or services.

NAFTA, Article 1305.

will likely engender disputes between IP-based providers needing to interconnect with carriers that control access to the PSTN.

17. pulver.com recognizes that there are certain social obligations that are provided by circuit-based telecommunications carriers that are not currently provided, at least not identically, by IP-based communications providers. pulver.com trusts that the Commission is aware that the capabilities of IP-based communications will provide applications that will greatly improve the services provided by legacy communications network. An obvious example, is the ability of IP-based emergency response systems to enable a distressed person to simply press a button and have coordinated emergency response teams and other entities obtain immediate access to the person's location, medical history and other relevant data that might require particularized treatment. That is the world that we hope to create over the next few years with the deployment of IP communications.

18. Most of these issues will be resolved as a matter of course by market forces. When IP-based services are to be used by a customer as a replacement for its existing phone service, the provider will not remain in business if it cannot guarantee quality emergency response. In some cases, emergency services simply may not make sense. For example, simply because X-Box offers a voice application on its Internet game platform does not mean that the user of the X-Box should have an expectation that Microsoft will provide E911 service to the gamer.

19. pulver.com and the international IP-based communications community are committed to promoting the social good by establishing industry-based solutions to the host of social issues confronting IP-based communications. pulver.com has initiated an effort, currently under the auspices of the Global IP Alliance. The Global IP Alliance is intended to serve as an international consortium of IP-based communications service and application providers committed to realizing the promise of interconnecting IP-based communications. The Global IP Alliance will adopt and implement common principles designed to promote several primary objectives:

- 1) The interconnection of IP-based communication services with an initial focus on voice applications.
- 2) Develop policies to ensure that IP-based communications entities address and develop financially responsible, industry-based solutions to satisfy worthy policy objectives such as emergency response, law enforcement, security and privacy, numbering, naming and addressing.
- 3) Develop policies and work with other organizations to ensure that IP-based communications can grow unregulated, or with as little regulation as possible, consistent with the goal of fostering open IP-based communications.
- 4) The interconnection of the increasing number of VoIP and IP Communications islands into one large IP Communications global network by using open global Internet standards. Entities, of course, may maintain their own Intranets and other internal IP-based communities.

- 5) The interconnections between IP-based communications providers in a responsible way, so as not to expose the networks to unwanted attacks and users to unwanted telemarketing and spam. IP-based communications providers will use the pertinent IETF and ITU standards and practices and must assure authenticated and correct IETF and ITU standards compliant transmission of the identity of their subscribers who originate a call.
- 6) Develop policies to support the model of financially sustainable Internet broadband service and financially sustainable VoIP service while at the same time promoting competition in the open market-place to best serve the users of VoIP.
- 7) Develop policies to develop intellectual property protection and the promotion of open standards using similar guidelines as those customary for Internet standards.
- 8) Foster and protect the rights of users of IP-based communication including the equal, free market based right to access content, the right to use applications of one's choice, the right to attach approved personal devices of one's choice, the right to obtain service plan information, and the right to privacy and security.
- 9) While its initial focus shall consider VoIP, the Global IP Alliance will also consider other IP-based communications services, such as presence, instant messaging, multimedia, events and conferencing collaboration emerging in enterprises and in mobile services networks.
- 10) Promote compliance with established standards.
- 11) Serve functions that are unmet by the other IP-based communications-related organizations and standards bodies, including supporting the introduction of IP communication to encourage innovation at the edge of the network.

20. To achieve these goals, members of the Global IP Alliance agree to adhere to the following common principles:

1. Promote the interoperability of IP-based communications with an initial focus on voice applications. The Global IP Alliance may, as needed or desired, also consider other IP communication services and applications such as presence, instant messaging, multimedia, events and conferencing collaboration.
2. Work to ensure that IP-based communications entities address and develop financially responsible industry-based solutions to satisfy worthy policy objectives such as emergency response, law enforcement, security and privacy, naming and addressing.
3. Work to foster and protect the rights of users of IP-based communications, including the right to access content, the right to use applications, the right to attach standards compliant personal devices, the right to obtain service plan information, and the right to privacy and security.
4. Work together and with other organizations to ensure that IP-based communications may grow unregulated, or with as little regulation as possible, and consistent with the goal of fostering open IP-based communications across the Internet.
5. Work toward interconnecting the increasing number of VoIP and IP Communications islands into one large IP Communications global network by

using open global Internet standards. Members of the Global IP Alliance may maintain their own Intranets and other internal IP-based communities.

6. Work to accomplish interconnections between IP-based communications providers in a responsible way, so as not to expose the networks to unwanted attacks and users to unwanted telemarketing and spam. IP-based communications providers will use the pertinent IETF and ITU guidelines and practices and must assure authenticated and correct IETF and ITU standards compliant transmission of the identity of their subscribers who originate a call.
7. Support the model of financially sustainable Internet broadband service and financially sustainable IP-based communications service while at the same time promoting competition in the open market place to best serve the users of VoIP and IP Communications in general.
8. Work to develop intellectual property protection and the promotion of open standards using similar guidelines as those customary for IETF. Proponents of a technology or method shall, to the best of their ability, disclose any intellectual property claims and restrictions attached to such technology or method.

21. The Global IP Alliance, with initial funding and resource allocation from pulver.com has already begun to take steps to achieve these goals. Without any immediate regulatory compulsion, the Global IP Alliance has begun to do the following:

- Develop a common set of principles governing the behavior of IP-based entities.
- Implement the principles by establishing subgroups to develop relevant guidelines (with the assistance of engineers and other industry experts), by marketing these guidelines throughout the industry (including at industry fora), and by holding discussions with government officials around the world.
- Build up a knowledge base for solving regulatory and legal challenges to assist the members of the Global IP Alliance and their clients and users of IP-based communications.
- Contribute to the interoperability work in other organizations, such as in industry test labs, in the SIP Forum and other interoperability entities.
- Host a web site to make its goals and activities known to users and providers of IP-based communications worldwide. The web site will contain pertinent legal, regulatory information to assist IP-based communication users and providers in promoting the growth of usage of IP-based communications, as well as links to technical information on interoperability, peering relationships, identity management and information on how to prevent denial of service attack, spamming, telemarketing call and other non-desirable side effects.
- Translate proposed standards into terms and concepts cognizable to laypeople and promote the adherence to standards established by standards bodies.

- Identify problems that might be plaguing the IP-based communications industry and interface with appropriate authoritative bodies to develop solutions.
- Identify industry groups and other entities attempting to solve commercial, technical, operational and social issues related to IP-based communications implementation and interconnection.
- Serve as the international hub or liaison for the disparate industry groups and other entities worldwide attempting to resolve commercial, technical, operational and social issues related to IP-based communications implementation and interconnection.

IV. CONCLUSION

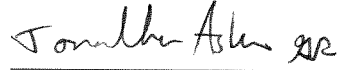
22. In the future, we envision a balance of people looking to manage their own access and people looking for services from third parties. The Internet will be the model of future communication and we should embrace the Internet as a “regulation-free” zone. We can empower consumers to control their own communications, as long as the end user has a broadband pipe and the ability to reach applications and attach approved equipment of her choice.

23. The “Age of Voice on the Net” is upon us and it is time for the industry to move beyond the hype of VoIP and to deliver the services that are only possible because of the advent of IP-based communications. The advent of a technology like Session Initiation Protocol (“SIP”) means that for the first time in the two centuries of electronic communications, the same protocol can be used on an end-to-end basis between customers on two ends of a communication. This represents a radical change in the engineering of communication networks and the manner by which value added services can and will be introduced in the near future. Some of these services start to become very visible only when we start to blur the line between instant messaging, presence, and voice communication. Throw in blogging, social networking and gaming and things just start to get interesting. VoIP is clearly much more than a POTS replacement technology.

24. We do not know the future’s requirements. IP Communications can change the way we work and live. It has the potential to redefine communications as we know it today. In order to realize this potential, it is essential for the Commission to set

the tone, to lead the way and ensure that it and other regulatory bodies around the world do no harm and ensure the growth and viability of IP-based communications.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jonathan Askin" followed by a small mark that appears to be "jr".

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