
**LAW SEMINARS INTERNATIONAL
Cutting-Edge Issues in Technology Law
Seattle, Washington
December 7-8, 2006**

**“VOIP, IPTV and the Net Neutrality Debate:
Traditionally Regulated Telecommunications Carriers
Offering Content and Traditionally Unregulated Technology
Companies Offering Regulated Services”**

1. Introduction

- **Traditionally regulated carriers have won “regulatory relief” from network sharing and unbundling obligations.**
 - **Supreme Court *Brand X* decision for cable**
 - **FCC *Wireline Broadband* Order for RBOCs**
- **Internet Service Providers and other traditionally unregulated products and services (including those provided by otherwise less-regulated incumbents) are increasingly subject to regulation.**

**2. Regulatory Requirements for VOIP Services:
E-911, CALEA and Universal Service Fund (USF)**

- **FCC is extending E-911, CALEA and Universal Service Fund (USF) obligations to previously unregulated providers and services.**
- **FCC Order extends CALEA to:**
 1. **“Facilities based” broadband providers:**
 - **Wireline, wireless (including municipal), cable, satellite**
 - **Entities which “provide transmission or switching over their own facilities between the end user and the ISP.”**
 - **Covers only “switching and transmission.”**

2. “Interconnected VOIP Services”

- **FCC 4-prong test for “Interconnected VOIP Services” (E-911 and CALEA Orders)**
 1. **Enable real-time 2-way voice communications;**
 2. **Require a broadband connection from the user’s location;**
 3. **Require IP-compatible customer premises equipment (CPE); and**
 4. **Permit users to receive calls from and terminate calls to PSTN.**
- **FCC used CALEA’s substantial replacement provision as the basis to extend CALEA to interconnected VOIP services.**
- **Countdown to CALEA regulatory compliance:**

August	2004	FCC issues NPRM
August	2005	Order Adopted
September	2005	Order Released
October	2005	Order Published
November	2005	Order Effective
May 14	2007	Compliance Deadline
- **Petitions for Stay, Reconsideration and Appeals all denied. (Including USTA Petition for Recon to restart the 18 month clock once the FCC issues its 2nd Report and Order).**

3. IPTV

- **National video franchise is the holy grail for RBOCs seeking to offer multichannel video services (cable TV).**
- **Chance of passage as part of a re-write of the Telecommunications Act of 1996 diminished with Democratic control of Congress**
- **Efforts likely to shift to states, to the extent they haven’t already, to get statewide video franchises if a national franchise is not available.**

4. Net Neutrality

- **Sought by its advocates as a safeguard to Bell regulatory relief.**
- **Stronger support among Democrats, but still unlikely as a stand-alone bill. Has been discussed as a concession in a Telecom Act rewrite in which Bells seek national video franchise.**
- **A possible condition to the AT&T – BellSouth merger.**

5. Data Retention

- **Arose in context of online child exploitation but will apply to fighting crime and terrorism as well.**