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CLIENT UPDATE
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**FCC Clarifies Definition and Allocation of Toll Revenues
for VoIP Traffic Studies**

Every quarter, interconnected VoIP service providers contribute a percentage of their interstate and international telecommunications revenues to the Universal Service Fund (“USF”). Because VoIP services are usually sold as a bundled product, providers have three choices for determining what percentage of their revenues is interstate or international: They can use the 64.9% safe harbor, actuals (if available), or a traffic study.

On January 24th, the FCC released an Order clarifying how toll service revenues were to be defined for USF purposes, and allocated in VoIP traffic studies:

Toll service revenue.

- Toll service revenue is additional charges for telecommunications services that enable the customer to call points outside the customer’s plan-defined calling area (which may be local, regional or nationwide).
- An additional per-minute charge that is the same for local and long distance calls is not toll service revenue, but must be allocated between interstate and intrastate jurisdictions.
- Revenue from nationwide, fixed-price calling plans that do not distinguish between local, intrastate, or interstate service is toll service revenue only to the extent that additional fees are assessed for calls made to points outside the plan-defined home calling area.

Traffic studies.

Providers must ensure that toll service revenue is accurately accounted for by appropriately weighting the traffic in their chosen reporting methodology. The FCC’s Order offers the following guidelines:

- Providers may conduct one traffic study focusing on toll calls to allocate toll revenue, and a separate study of all calls to allocate all other telecommunications revenue.
- Providers may be able to design a single traffic study that accounts for toll service revenue by properly weighting such traffic. For example, if on average a service provider derives five times as much revenue from an international minute as from an intrastate minute, the provider would weight each international minute to equal five intrastate minutes.
- Traffic studies relying on statistical sampling must meet the following requirements:
 - They must be designed to produce a margin of error of no more than one percent with a confidence level of 95%.

- If the sampling technique does not employ a completely random sample, the provider must document the sampling technique and explain why it does not result in a biased sample.
- Traffic studies should include, at a minimum: (1) an explanation of the sampling and estimation methods employed and (2) an explanation as to why the study results in an unbiased estimate with the accuracy specified above.
- Regardless of what option is chosen, toll service traffic must be identified and treated in a manner that recognizes that such traffic is more likely to be interstate or international than intrastate.
- Any revenue associated with charges on customer bills that is identified as interstate or international must be accounted for (e.g., through proper weighting in a traffic study) as 100% interstate or international when reporting revenues on Form 499-A or 499-Q.

Providers should retain all data underlying their traffic studies as well as all documentation necessary to facilitate an audit of the study data and be prepared to make this data and documentation available to the Commission upon request.

The Order will become effective 30 days after publication in the Federal Register. The publication date is still TBD. If your company has any questions about reporting VoIP revenues on Form 499-A or 499-Q, please contact Nicole Paolini-Subramanya at (312) 372-3930.

Deadline Approaching to file FCC Form 477

Form 477 is due on or before March 1, 2008. The form and instructions are available electronically on the FCC's website at <http://www.fcc.gov/formpage.html>. The FCC encourages filers to submit the completed Form 477 via email to FCC477@fcc.gov. Form 477 collects information about broadband connections to end user locations, and about wired and wireless local telephone services.

All facilities-based providers of wired or wireless broadband connections to end user locations, all local exchange carriers, and all non-reseller commercial mobile radio service providers offering mobile telephony are required to file Form 477 twice each year. In the filing due March 1st, filers need to report information about broadband connections and local telephone service as of December 31, 2007.

For the purposes of Form 477, a broadband connection is one that enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second in at least one direction.

If you have any questions about the FCC Form 477, please call Nicole Paolini-Subramanya or Emily Denney at 312-372-3930.

Copyright Forms and Fees Due By March 3, 2008

Between January 1, 2008 and March 3, 2008, cable operators must file with the U.S. Copyright Office their Statement of Account (Form SA1-2 or SA3) and pay any royalty fees due for the August 2007 – December 2007 accounting period. The following forms apply:

- **SA1-2 Short Form.** For use by cable television systems with semiannual gross receipts of less than \$527,600.

- **SA3 Long Form.** For use by cable television systems with semiannual gross receipts of \$527,600 or more.

Copyright royalty fees must be remitted by electronic payment.

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