

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

In the Matter of:	)	
	)	RM-10865
IP-Enabled Services	)	
	)	WC Docket No. 04-36
	)	
	)	
	)	

**REPLY COMMENTS OF EDUCAUSE<sup>1</sup>**

EDUCAUSE submits these reply comments to the FCC in the matter of IP-enabled services, WC Docket No. 04-36, to encourage the Commission to resist the argument for classifying IP-enabled services based on functional equivalency and to treat IP-enabled services as a unique technology that should remain distinct from the legacy telephony regulatory system. In the words of Thomas Rutledge, COO of Cablevision Systems Corp, “Voice over IP is poised to evolve...such that the concept of ‘voice service’ will mean something far different to users in the coming years from what it does today. Prior technological innovations did not change the fundamental character of plain old

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<sup>1</sup> EDUCAUSE is a nonprofit association whose mission is to advance higher education by promoting the intelligent use of information technology. Membership is open to institutions of higher education, corporations serving the higher education information technology market, and other related associations and organizations. EDUCAUSE programs include professional development activities, print and electronic publications, strategic policy initiatives, research, awards for leadership and exemplary practices, and a wealth of online information services. The current membership comprises nearly 1,900 colleges, universities, and education organizations, including more than 180 corporations, and more than 13,000 active member representatives. EDUCAUSE has offices in Boulder, Colorado, and Washington, D.C.

telephone service (POTS). VoIP, by contrast, will usher in a whole new kind of communications market.”<sup>2</sup>

EDUCAUSE’s college and university members, who plan, design, build-out, and manage telecommunications systems on their campuses, work with both Internet technology and legacy telephone technology on a daily basis. Many incumbent telephone carriers and state governments feel that VoIP is simply another “way of making a phone call” and should therefore be treated in a similar fashion to past upgrades of telephony service. We respectfully understand their argument, but feel they are being short-sighted. The decisions made by the Commission on how to classify VoIP will have a resounding impact on all communications services as they move to an IP-based infrastructure. Therefore, we encourage the Commission to heavily weigh the opinions expressed by organizations such as MCI, Global Crossing North America, the Cellular Telephone and Internet Association, Pulver.com and many others who understand how the Internet is fundamentally different from the public switched telephone network (PSTN). These organizations agree with EDUCAUSE that this is an opportunity for the Commission to leave behind the burdensome, irrational, and inconsistent telephony regulations that have developed piecemeal over the last century and move forward with a more efficient, equitable and consistent methodology.

We agree with the many comments that emphasized the need for regulatory certainty to encourage investment and thereby more rapid transition to IP-enabled services. Despite the fear of arbitrage, the classification of all forms of VoIP as information services would provide certainty for the market, keep prices low and foster rapid innovation in IP-enabled services; this in turn will result in increased consumer demand for broadband access. In contrast, the classification of IP-enabled services based on functional equivalency would be an administrative nightmare. It would slow investment in new services due to continued regulatory uncertainty, it would eliminate the consumer price advantage, and innovation would be distracted by the desire to outfox the regulators. As

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<sup>2</sup> Statement of Thomas Rutledge, Chief Operating Officer, Cablevision Systems Corp. before the United States Senate Committee on Commerce, Science and Transportation on the matter of Voice-over-Internet-Protocol, June 16, 2004. [http://commerce.senate.gov/hearings/testimony.cfm?id=1230&wit\\_id=3539](http://commerce.senate.gov/hearings/testimony.cfm?id=1230&wit_id=3539)

an outcome, broadband adoption would be decelerated. Classifying VoIP as an information service buys the Commission time to develop a thoughtful and judicious path forward toward a world increasingly dependent on IP-enabled services but where the PSTN will also remain in existence for many years to come.

In addition, EDUCAUSE remains committed to the following recommendations to the Commission:

- Regulation of the Internet should be based on an IP-based layered model that facilitates the separation of services (or applications) from transport (or infrastructure).<sup>3</sup>
  - The services layer (which includes VoIP) should remain as regulation-free as possible, but
  - The transport layer may require regulation and oversight to ensure affordable and ubiquitous broadband access;
- To the extent that the Internet is regulated, it should be done at the federal level;
- Public services such as 9-1-1 and access for the disabled should be mandated only where it is clear the market has not satisfied public policy objectives, and;
- The Universal Service Fund (USF) should be updated and refocused on the goal of achieving universal broadband access.

EDUCAUSE feels that the public's rate of acceptance and migration to IP-enabled services depends largely on the outcome of these proceedings. As Congress considers revising the Telecommunications Act of 1996, the Commission is in a position to provide the framework for communications policy that will influence our economy for decades to come. In the Commission's own words, "the Internet has transcended historical jurisdictional boundaries to become one of the greatest drivers of consumer choice and benefit, technical innovation, and economic development in the United States in the last

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<sup>3</sup> This is not inconsistent with the Commission's *Computer Inquiry line of decisions*. See *Regulatory and Policy Problems Presented by the Interdependence of Computer and Communication Services and Facilities*, Docket No. 16979, Computer I Final Decision 1971, Computer II Final Decision 1980, Computer III Final Decision 1986.

ten years. We (the Commission) acknowledge that it has done so in an environment that is free of many of the regulatory obligations applied to traditional telecommunications services and networks.”<sup>4</sup> Even though the Internet may no longer be considered a nascent technology that needs protection, the restraint that the Commission has shown should be continued wherever possible. We feel the IP-based layered model provides the means to achieve a minimal regulatory environment that furthers the Commission’s goals of protecting the public interest, stimulating the demand for broadband access, and insuring continued innovation.

Respectfully submitted,  
EDUCAUSE

A handwritten signature in black ink that reads "Brian L. Hawkins". The signature is written in a cursive, flowing style.

Brian L. Hawkins, President

Staff Contact:  
Wendy Wigen  
EDUCAUSE  
1150 18<sup>th</sup> St. NW Suite 1010  
Washington, DC 20036-3824  
(202) 331-5372  
[wwigen@educause.edu](mailto:wwigen@educause.edu)

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<sup>4</sup> Notice of Public Rulemaking WC Docket No. 04-36, Page 2.