

**CONCURRING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order (WC Docket No. 03-211)

We all marvel at the tremendous and transformative potential of IP services. They have the power significantly to remake the telecommunications landscape by flooding the market with innovative new services and providers. But to unleash the full potential of this new technology and to ensure that these services succeed, we need rules of the road—clear, predictable and confidence-building.

Today's decision finds that VoIP services like Vonage's DigitalVoice have an undeniably interstate character. That's fine as far as it goes—but it doesn't go very far. Proclaiming the service "interstate" does not mean that everything magically falls into place, the curtains are raised, the technology is liberated, and all questions are answered. There are, in fact, difficult and urgent questions flowing from our jurisdictional conclusion and they are no closer to an answer after we act today than they were before we walked in here. So rather than sailing boldly into a revolutionary new Voice Over communications era, we are, I think, still lying at anchor. By not supplying answers, we are clouding the future of new technology that has the power to carry us over the horizon.

So I can only concur in today's decision. While I agree that traditional jurisdictional boundaries are eroding in our new Internet-centric world, we need a clear and comprehensive framework for addressing this new reality. Instead the Commission moves bit-by-bit through individual company petitions, in effect checking off business plans as they walk through the door. This is not the way we should be proceeding. We need a framework for all carriers and all services, not a stream of incremental decisions based on the needs of individual companies. We need a framework to explain the consequences for homeland security, public safety and 911. We need a framework for consumer protection. We need a framework to address intercarrier compensation, state and federal universal service, and the impact on rural America. But all I see coming out of this particular decision is . . . more questions.

The Commission's constricted approach denies consumers, carriers, investors and state and local officials the clarity they deserve. These are not just my musings. A growing chorus of voices is urging the Commission to stop its cherry-picking approach to VoIP issues. When the National Governors Association, the Association of Public Safety Communications Officials, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the Communications Workers of America, AARP, the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Western Telecommunications Alliance, the National Association of Regulatory Utility Commissioners, the National Association of Telecommunications Officers and Advisors, the National Consumers League and local directors of 911 service in cities and counties around the country all suggest that moving ahead in piecemeal fashion is irresponsible, I think we should take heed.

I want to point to language in this item—albeit it's in a footnote—that warns people not to draw unwarranted conclusions from the narrow jurisdictional finding that we make. What we do today should not be interpreted as anything more than it is. Yes, Vonage's DigitalVoice service has an interstate character. But what exactly that entails we do not say. All that important work lies ahead. Wouldn't it be sad if we were to let it go at this, pretending we have done something truly responsive to the questions that need to be answered, and then not proceed to tackle the related issues quickly and comprehensively? And wouldn't it be tragic if the blunt instrument of preemption was permitted to erode our partnership

with the states? We have worked long and hard to nourish a common federal-state commitment to a pro-competitive telecommunications environment. This is no time to abandon that commitment.

Sometimes I wonder what the strategy is in this Commission's approach to VoIP. Some warn that it may be a camel's nose under the tent strategy, proceeding inch-by-inch to far-reaching conclusions that a more straight-forward approach could not sustain. I hope that is not the case and this decision should not be so interpreted. What I hope this decision does is to force us finally to face up to the larger issues. We are, after all, face-to-face here with issues that go to the very core of our statutory responsibilities. These issues can't be ducked and they can't be dodged if we are truly serious about these technologies realizing their full transformative potentials. So I'll withhold my approval for that happy day when we step up to the plate and begin answering the hard questions about what these technologies and services are and how they fit into America's communications landscape.