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115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-6

IMPROVING RURAL CALL QUALITY AND
RELIABILITY ACT OF 2017

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 96



MARCH 21, 2017.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 96]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 96) to amend the Communications Act of 1934 to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 96, the Improving Rural Call Quality and Reliability Act of 2017, is to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications by requiring certain communications providers that carry, route, or transmit voice traffic to register with the Federal Communications Commission (FCC or Commission) and to meet service quality standards to be established by the Commission.

BACKGROUND AND NEEDS

The FCC has found that there is a frequent and pervasive inability to properly complete long-distance calls to rural areas.¹ The problem, known as “rural call completion,” results in lengthy periods of dead air on the calling party’s end after dialing a number, audible ringing tones on the calling party’s end when the called party’s telephone never rings at all, false busy signals, inaccurate intercept messages, and the inability of one or both parties to hear the other when the call does go through.² The Commission has received examples of life-threatening call failures, including a situation where an on-call surgeon was unable to receive a call from a hospital for emergency surgery and a 9-1-1 call center was unable to complete emergency call backs.³ In rural and small-town America, call completion failures have created “‘dire consequences’ to consumers, economic development, and public safety across the Nation.”⁴

The FCC has determined that one of the main causes of the rural call completion problem is that intermediate providers, companies often hired by long distance providers to route and deliver calls to local telephone providers serving rural areas, are not completing the calls.⁵ Higher-than-average rates charged to transport and terminate long-distance calls to rural areas create an incentive for long-distance providers to hand off these calls to intermediate providers that offer to deliver them cheaply. Those high rates, though, also create an incentive for those intermediate providers not to complete the calls properly, to avoid paying those higher-than-average transport and termination charges when it is not profitable to do so.

Practices used for routing calls to rural areas that lead to call termination and quality problems may violate the Communications Act of 1934.⁶ The Commission has clarified the applicability of its rules⁷ and imposed additional reporting and data retention requirements for local telephone exchange carriers, interexchange carriers (i.e., long distance providers), commercial mobile radio service providers (i.e., cellular providers), and voice over Internet protocol providers,⁸ but call completion problems remain.⁹

SUMMARY OF PROVISIONS

S. 96 would increase the reliability of intermediate providers by bringing transparency and standards to the intermediate provider

¹ Rural Call Completion Report and Order and Further Notice of Proposed Rulemaking, *Rural Call Completion Order*, 2013, 28 Federal Communications Commission (FCC) Received (Rcd.) 16154, 16160-61 2013.

² *Ibid.* at p. 16161.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.* at p. 16162.

⁶ See 47 U.S.C. §201(b), 202(a).

⁷ *Developing a Unified Inter-carrier Compensation Regime, Establishing Just and Reasonable Rates for Local Exchange Carriers*, CC Docket No. 01-92, WC Docket No. 07-135, Declaratory Ruling, 27 FCC Rcd 1351, 1356, para. 12 n.37, Wireline Comp. Bur. 2012.

⁸ Rural Call Completion Order, 28 FCC Rcd., at 16164.

⁹ National Telecommunications Cooperative Association (NTCA) reports that 80 percent of its members responding to a questionnaire indicated that they have had call completion problems in the past year, and over 25 percent indicated that they receive complaints from subscribers at least weekly. Letter from Jill Canfield, Vice President of Legal and Industry, NTCA-The Rural Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-39, June 2, 2016.

market. Specifically, it would require intermediate providers to register with the Commission and maintain compliance with service quality standards to be adopted by the Commission. Covered providers, generally long-distance voice service providers with more than 100,000 domestic subscriber lines, would be prohibited from using an unregistered intermediate provider to transmit voice communications. The requirements would apply regardless of the format, protocol, or technology by which a communication or service is provided or achieved, or the regulatory classification of such communication or service.

The Commission would have 180 days to promulgate rules to establish the registry of intermediate providers, which would be publicly available. The Commission would have 1 year to promulgate rules to establish intermediate provider service quality standards.

LEGISLATIVE HISTORY

S. 96 was introduced by Senators Klobuchar, Thune, and Tester on January 11, 2017. During Executive Session on January 24, 2017, the Committee, by voice vote, ordered the bill to be reported without amendment.

H.R. 460, a bill identical to S. 96, was introduced in the House of Representatives by Representative David Young (IA) and ten cosponsors on January 11, 2017, and was referred to the Committee on Energy and Commerce of the House of Representatives. The House of Representatives passed that bill by voice vote on January 23, 2017.

In the 114th Congress, on June 29, 2016, during Executive Session, the Committee ordered S. 827 to be reported favorably with an amendment (in the nature of a substitute) by voice vote. The Committee reported version of S. 827, which was introduced by Senator Klobuchar, is identical to S. 96, as it was introduced in the 115th Congress. H.R. 2566, a House of Representatives companion bill to S. 827 and introduced by Representative David Young (IA), was passed by the House of Representatives on November 14, 2016, with language identical to S. 96, as it was introduced in the 115th Congress.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 96—Improving Rural Call Quality and Reliability Act of 2017

The Federal Communications Commission (FCC) is an independent agency that regulates various aspects of wireline (telephone, for example), wireless, cable, and satellite communications. S. 96 would require certain providers of voice communication services to register with the FCC. It also would require the agency to issue rules establishing service quality standards for those providers.

CBO assumes that S. 96 will be enacted in the first half of fiscal year 2017. On the basis of an analysis of information from the FCC, CBO estimates that implementing S. 96 would cost \$4 million

over the 2017–2022 period for the agency to establish and operate the registry of voice communication service providers and to promulgate rules establishing service quality standards. However, the FCC is authorized to collect fees sufficient to offset the costs of its regulatory activities each year. Therefore, CBO estimates that the net cost to implement S. 96 would be negligible, assuming annual appropriation actions consistent with the agency’s authorities.

Enacting S. 96 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 96 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 96 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

The bill contains private-sector mandates as defined in UMRA. Specifically, the bill would require all intermediate providers of voice communications services to register with the FCC and to comply with service quality standards established by the agency. (Intermediate providers contract with other telecommunication providers to transmit voice calls from one destination to another.) The bill also would require telecommunications providers that contract with intermediate providers to use only those providers that are registered with the FCC. Lastly, if the FCC increases annual fee collections to offset the costs of implementing its additional regulatory activities, the bill would increase the cost of an existing mandate on commercial entities required to pay those fees. On the basis of information about current industry and regulatory practices, CBO estimates that the incremental cost to comply with the requirements of the bill would not be substantial. Further, any increase in fees would amount to no more than \$4 million over 2017–2022 period. Therefore, CBO estimates that the aggregate cost of the mandates in the bill would fall well below the annual threshold established in UMRA for private-sector mandates (\$156 million in 2017, adjusted annually for inflation).

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs) and Logan Smith (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The bill, as reported, would require intermediate providers to register with the Commission and maintain compliance with service quality standards to be adopted by the Commission. Providers that meet the definition of intermediate providers therein would be subject to these new compliance requirements. The scope of entities covered by the new requirements to register and for service standards would be limited; however, the bill would clarify the definition of what constitutes an intermediate provider, ensuring that car-

riers that merely originate and terminate traffic are not subject to new service quality standards that do not apply to their actions.

ECONOMIC IMPACT

S. 96 is intended to improve the efficiency and certainty of voice communications to rural areas of the country by requiring intermediate providers to register with the FCC and comply with service quality standards to be established by the Commission. Further, covered providers would be prohibited from using an intermediate provider that is not registered with the FCC. The Committee expects that improved voice communications for households, businesses, and public safety officials located in rural areas will result in positive economic benefits to those areas and the Nation as a whole.

PRIVACY

The bill would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from the passage of this legislation.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section. 1. Short title.

This section provides that this Act may be cited as the “Improving Rural Call Quality and Reliability Act of 2017.”

Section. 2. Ensuring the integrity of voice communications.

This section would amend part II of title II of the Communications Act of 1934 (47 U.S.C. 251 et seq.) by adding a new section 262. Section 262 would require that intermediate providers, as defined in such section, register with the Commission and maintain compliance with service quality standards to be adopted by the Commission. The Commission would have 180 days to promulgate rules to establish the registry and 1 year to promulgate rules to establish service quality standards. Carriers that qualify for the FCC’s “safe harbor”¹⁰ within 1 year of enactment (and maintain their qualification) would still be required to register, but would not have to comply with the service quality standards.

Covered providers, as defined in section 64.2101 of title 47 of the Code of Federal Regulations (generally those providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines),

¹⁰ 47 C.F.R. §64.2107

would not be permitted to use an unregistered intermediate provider to transmit most voice communications.

The FCC would be required to establish the registry to record intermediate provider registrations, make the registry publicly available on the Commission's website, and establish intermediate provider service quality standards. In establishing those standards, the Commission would be required to prevent unjust and unreasonable discrimination among areas of the United States in the delivery of voice communications, regardless of the format or protocol by which the service is provided.

Nothing in the new section 262 would preempt or expand the authority of a State public utilities commission or other agency to collect data or investigate or enforce State call completion laws or regulations.

The new section 262 would further provide that its requirements apply regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service. In addition, it would provide that nothing in such section be construed to affect the regulatory classification of any communication or service. Steps taken by the Commission to promote service quality standards with its rulemaking could include the adoption of specific call completion metrics or the more general adoption of duties to complete calls analogous to those that already apply to covered providers under prior Commission rules and orders.

Finally, the new section 262 would define an "intermediate provider" as an entity that enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic. The Committee intends that to meet this definition, an entity must have a business relationship for the specific purpose of carrying, routing, or transmitting traffic. It is not the intent of the Committee that this definition be interpreted to cover entities that only incidentally transmit voice traffic, like Internet Service Providers who may carry voice traffic alongside other packet data, without a specific business arrangement to carry, route, or transmit that voice traffic.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

PART II OF TITLE II OF COMMUNICATIONS ACT OF 1934

[47 U.S.C. 251 et seq.]

SEC. 262. ENSURING THE INTEGRITY OF VOICE COMMUNICATIONS.

(a) *REGISTRATION AND COMPLIANCE BY INTERMEDIATE PROVIDERS.*—*An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission shall—*

- (1) register with the Commission; and
- (2) comply with the service quality standards for such transmission to be established by the Commission under subsection (c)(1)(B).

(b) **REQUIRED USE OF REGISTERED INTERMEDIATE PROVIDERS.**—A covered provider may not use an intermediate provider to transmit covered voice communications unless such intermediate provider is registered under subsection (a)(1).

(c) **COMMISSION RULES.**—

(1) **IN GENERAL.**—

(A) **REGISTRY.**—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate rules to establish a registry to record registrations under subsection (a)(1).

(B) **SERVICE QUALITY STANDARDS.**—Not later than 1 year after the date of enactment of this section, the Commission shall promulgate rules to establish service quality standards for the transmission of covered voice communications by intermediate providers.

(2) **REQUIREMENTS.**—In promulgating the rules required by paragraph (1), the Commission shall—

(A) ensure the integrity of the transmission of covered voice communications to all customers in the United States; and

(B) prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.

(d) **PUBLIC AVAILABILITY OF REGISTRY.**—The Commission shall make the registry established under subsection (c)(1)(A) publicly available on the website of the Commission.

(e) **SCOPE OF APPLICATION.**—The requirements of this section shall apply regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service.

(f) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to affect the regulatory classification of any communication or service.

(g) **EFFECT ON OTHER LAWS.**—Nothing in this section shall be construed to preempt or expand the authority of a State public utility commission or other relevant State agency to collect data, or investigate and enforce State law and regulations, regarding the completion of intrastate voice communications, regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service.

(h) **EXCEPTION.**—The requirement under subsection (a)(2) to comply with the service quality standards established under subsection (c)(1)(B) shall not apply to a covered provider that—

- (1) on or before the date that is 1 year after the date of enactment of this section, has certified as a Safe Harbor provider under section 64.2107(a) of title 47, Code of Federal Regulations, or any successor regulation; and

(2) continues to meet the requirements under such section 64.2107(a).

(i) **DEFINITIONS.**—*In this section:*

(1) **COVERED PROVIDER.**—*The term “covered provider” has the meaning given the term in section 64.2101 of title 47, Code of Federal Regulations, or any successor thereto.*

(2) **COVERED VOICE COMMUNICATION.**—*The term “covered voice communication” means a voice communication (including any related signaling information) that is generated—*

(A) *from the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and*

(B) *through any service provided by a covered provider.*

(3) **INTERMEDIATE PROVIDER.**—*The term “intermediate provider” means any entity that—*

(A) *enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—*

(i) *from an end user connection using a North American Numbering Plan resource; or*

(ii) *to an end user connection using such a numbering resource; and*

(B) *does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.*