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**The Time Warner
Wholesale Interconnection
Decision
March 3, 2007**

From: Michael B. Hazzard and Ross Buntrock

Last week, the FCC's Wireline Competition Bureau ("Bureau") issued an order "reaffirming" that wholesale providers of telecommunications services are entitled to interconnection and related items under sections 251(a) and (b) of the Communications Act.

As was widely reported in the press, this means that telecommunications carriers that wholesale VoIP and other services are entitled to interconnect and exchange traffic with local exchange carriers ("LECs").

Far less reported are the details of the decision. Here are four things to think about:

1. Asymmetrical Intercarrier Compensation. Wholesale carriers (and not their customers) are obligated to pay intercarrier compensation to **incumbent LECs**. The FCC **makes no mention of any incumbent LEC obligation to compensate wholesale carriers** for traffic termination. The FCC expressly punted on addressing intercarrier compensation for VoIP traffic under section 251(b)(5).
2. Limited Interconnection Rights. Although the order establishes an interconnection requirement under section 251(a), no interconnection finding is made under section 251(c). Under 251(c), competitors are entitled to interconnection: (i) at **any technically feasible point**; (ii) on terms and conditions that are just, reasonable and **nondiscriminatory**; and (iii) at **cost-based rates**. 251(a) interconnection – provided for in the order – contains none of these safeguards. **Expect special access pricing and terms**.
3. Broad Definition of Wholesale. The FCC clarified that the statutory classification of a wholesaler's customer – as either an "information service" or "telecommunication service" – is irrelevant to a wholesaler's ability to interconnect with a LEC under sections 251(a) and (b).
4. Action on Delegated Authority. Because the Bureau acted on delegated authority, parties **may not appeal any aspect of the order directly to circuit court**. Rather, parties must file either (but not both) an "application for review" or a "petition for reconsideration." An application for review would put matters before the full Commission. A petition for reconsideration would go to the Bureau, which may refer such a petition to the full Commission.

If you have any questions or need additional information, please contact Mike Hazzard at (202) 857-4540 or Ross Buntrock at (202) 857-4479.

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