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VoIP

Wiretapping the Internet: Is VoIP Different?

EDUCAUSE supports the need for law enforcement to access communications traffic under appropriate legal conditions and constraints. Law enforcement can currently obtain the information they need from the Internet without requiring providers to comply with a law intended for the legacy telephone network. For all its similarities, delivering voice over the Internet is different from the phone system in many important ways. Compliance with the Communications Assistance for Law Enforcement Act (CALEA) has cost the telephone companies billions of dollars and after 10 years is still not complete. This process involved a handful of providers in a static, well-established, heavily regulated industry. The task of achieving CALEA compliance for Internet Service Providers is daunting in comparison. The Internet is a network of thousands of providers in a very dynamic, young and unregulated industry. While we understand law enforcement's dilemma as communications increasingly migrate to the Internet, we feel the costs far outweigh the potential benefits in this case.

Our members administer internet access for thousands of campuses and libraries throughout this country, we expect a CALEA compliance requirement based on the current Petition before the FCC to create an untenable situation for them. If the Petition is granted, we expect three major areas of impact: technological innovation will be severely crippled as new systems are burdened with these standards and implementation is delayed awaiting approval from the FBI; it will undermine the privacy Congress designed the Electronic Communications Privacy Act to protect and add yet another layer of legal confusion to the already troubled combination of telephony and electronic communications; and, the financial burden placed on our members to attain compliance will come at a time when budgets are already strained to the breaking point. A separate but important consideration is the use of encryption. At a time when the Internet industry is moving rapidly toward less expensive and more user-friendly encryption techniques, the idea that criminals will not encrypt their communications seems erroneous. If encrypted from end to end, law enforcement could have the easiest access possible to a conversation and still not get any worthwhile information.

EDUCAUSE fully supports the goals of law enforcement. However, our review of CALEA, its history and hearings, and the current CALEA record at the Commission and in the courts suggests that the Petition interprets the application of CALEA inaccurately with respect to Internet access. If changing the existing law is justified, then Congress should call upon the entire Internet community of technologists, administrators, policy makers, and privacy advocates to design the most efficient and effective Internet 'wiretap' method possible.