

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

Application of

GTCR ONVOY HOLDINGS, LLC  
*Transferor,*

SINCH US HOLDING INC.  
*Transferee,*

ONVOY, LLC,  
MINNESOTA INDEPENDENT EQUAL ACCESS  
CORPORATION (MIEAC),  
VOYANT COMMUNICATIONS, LLC,  
BROADVOX-CLEC, LLC,  
ANPI BUSINESS, LLC,  
ANPI, LLC,  
INTELIQUENT, INC., AND  
LAYERED COMMUNICATIONS, LLC  
*Authority Holders*

For Consent to Transfer Indirect Control of  
Companies Holding Domestic and International  
Authority Pursuant to Section 214 of the  
Communications Act of 1934, as Amended

WC Docket No. 21-131  
ITC-T/C-20210401-00059  
ITC-T/C-20210401-00060  
ITC-T/C-20210401-00061  
ITC-T/C-20210401-00062  
ITC-T/C-20210401-00063  
ITC-T/C-20210401-00064  
ISP-PDR-20210401-00006

**REPLY COMMENTS OF  
GTCR ONVOY HOLDINGS, LLC AND SINCH US HOLDING INC.**

GTCR Onvoy Holdings, LLC (“GTCR”) and Sinch US Holding Inc. (“Sinch US”) (collectively, the “Applicants”), by counsel, file these reply comments regarding their applications for approval to transfer control of the Authority Holders in the above-captioned docket (the “Application”), including Inteliquent, Inc. (“Inteliquent”).<sup>1</sup>

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<sup>1</sup> See Consolidated Application for Consent to Transfer Control of Section 214 Authority Holders, WC Docket No. 21-131 (filed Apr. 1, 2021). As defined in the Application, the “Authority Holders” for whom permission is sought to transfer control are Onvoy, LLC, Minnesota Independent Equal Access Corporation, Voyant Communications, LLC, Broadvox- (continued...)

As the Applicants have explained, the transfer of control of the Authority Holders to Sinch US (the “Transaction”) will serve the public interest, convenience, and necessity by providing the Authority Holders with access to the financial resources and additional industry expertise of Sinch US and its affiliates. These resources and expertise in turn will enable expansion and diversification of services and serve to strengthen the Authority Holders’ ability to compete, to the benefit of American consumers.

In response to the Commission’s public notice regarding the Applications, no party filed comments addressing the merits of the Transaction. The sole third-party filing was lodged by a party with a long-running, unrelated commercial dispute with Inteliquent. The Commission should summarily disregard CarrierX’s comments, which attempt to misuse the Commission’s transaction review process to launch a collateral attack on an unrelated waiver order first issued by the Wireline Competition Bureau some fifteen months ago, and which are not transaction-specific.

**I. THE COMMISSION SHOULD NOT ALLOW CARRIERX TO MISUSE THE TRANSACTION REVIEW PROCESS FOR PRIVATE GAIN IN AN UNRELATED COMMERCIAL DISPUTE.**

In its comments, CarrierX attempts to leverage Commission review of the instant Transaction to further its private interests in a wholly unrelated commercial dispute. The Commission’s precedent is clear that transactions are not the proper venue to air such grievances that bear no relationship to the Transaction at hand.<sup>2</sup> In fact, as discussed further below, most of

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CLEC, LLC, ANPI, LLC, ANPI Business, LLC, Inteliquent, Inc., and Layered Communications, LLC.

<sup>2</sup> See, e.g., *Applications of Softbank Corp, Starburst II, Inc., Sprint Nextel Corporation, and Clearwire Corporation For Consent To Transfer Control of Licenses and Authorizations*, IB Docket No. 12-343, Memorandum Opinion and Order, 28 FCC Rcd 9642, 9676, para. 85 (2013) (“[I]ntercarrier compensation disputes are not merger specific, are based on arguments about prior conduct by [the subject carrier], and are more appropriately resolved through the (continued...)”)

CarrierX’s unsubstantiated claims relate to complex policy decisions carefully considered and resolved by the Commission in a notice and comment rulemaking proceeding. Those policy decisions have nothing to do with this Transaction, and bear no relevance to the Commission as it conducts its public interest analysis for this proceeding.<sup>3</sup>

CarrierX should be well aware that the Commission does not recognize private claims unrelated to a proposed transaction in its transaction review process. In fact, in the proceeding to review the proposed merger of Sprint and T-Mobile, the Commission flatly dismissed a similar Petition to Deny filed by CarrierX (doing business as “Free Conferencing”). Just as in its recent comments in this proceeding, there CarrierX made unsubstantiated allegations of harm about alleged commercial practices by one of the merging parties.<sup>4</sup> CarrierX urged conditioning approval of that transaction on commitments to change those commercial practices in ways that would benefit Free Conferencing.<sup>5</sup> In response, the Commission stated unequivocally that it

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contractual provisions between the parties or through the Commission’s complaint process under section 208 of the Act.”); *Applications of Cellco P’ship d/b/a Verizon Wireless & Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, & Spectrum Manager & De Facto Transfer Leasing Arrangements*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd. 17444, 17463, para. 29 (2008) (“[T]he Commission has held that it will impose conditions only to remedy harms that arise from the transaction (i.e., transaction-specific harms).”).

<sup>3</sup> See, e.g., *Applications of Craig O. McCaw and Am. Tel. & Tel. Co. for Consent to the Transfer of Control of McCaw Cellular Commc’ns and its Subsidiaries*, Memorandum Opinion and Order, 9 FCC Rcd 5836, 5904, para. 123 (1994) (“[W]e will not consider arguments in this [transaction] proceeding that are better addressed in other Commission proceedings [or] other legal fora.”).

<sup>4</sup> See Petition to Deny of CarrierX, LLC, d/b/a freeconferencecall.com (“Free Conferencing”), WT Docket No. 18-197 (filed Aug. 27, 2018).

<sup>5</sup> *Id.* at i-ii (alleging, *inter alia*, that (a) transferee’s “one-cent policy” concerning certain high-volume calling traffic was “discriminatory,” (b) transferee employed “reckless routing practices,” and (c) transferee was “a significant source of traffic terminating through fraudulent routes,” and asking the proposed transaction be denied or conditioned “on the enforceable cessation of” certain alleged commercial practices by T-Mobile.).

would not consider CarrierX's unrelated commercial claims in the context of a transaction review:

[A]lthough our rules provide for the filing of, *inter alia*, a petition for declaratory ruling, an informal request for Commission action, a petition for rulemaking, or a section 208 complaint, Free Conferencing has not taken advantage of these other, more appropriate, mechanisms to resolve its issue. The Commission does not favor attempts to use proceedings such as this one to raise issues better dealt with in alternative proceedings affording procedures more well-suited to addressing the parties' claims. Accordingly, we dismiss Free Conferencing's petition, and leave them to their other remedies.<sup>6</sup>

Despite the Commission's clear statement of disapproval, CarrierX once again is again misusing a transaction review to address unrelated claims and allegations. For example, as discussed in Section II of these reply comments, CarrierX seemingly attempts to blame Inteliquent for CarrierX's inability to convince the Commission that CarrierX is not engaged in access arbitrage and that it should have been granted a waiver of the access stimulation rules. This of course has no bearing on the instant Transaction. CarrierX also launches allegations about revenue shares and service to platform providers<sup>7</sup> which have been refuted in other contexts.<sup>8</sup> In addition to the comments and innuendos being irrelevant in general, none of these

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<sup>6</sup> *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent To Transfer Control of Licenses and Authorizations*, WT Docket No. 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd. 10578, 10600 para. 52 (2019).

<sup>7</sup> See, e.g. Comments of CarrierX at 8-11.

<sup>8</sup> See, e.g. Letter from Gerard J. Waldron, Matthew S. DelNero, and Thomas G. Parisi, Counsel to Inteliquent, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-39 at 2 (filed Aug. 16, 2018) (“[Free Conferencing and HD Tandem] attempt to deflect and divert focus on their unlawful behavior by asserting that Free Conferencing has obtained access to inbound direct inward dialing (‘DID’) voice service from Inteliquent. This is another obvious diversionary tactic. Inteliquent has served as a provider of inbound voice service for hundreds of customers, including communication service providers and interconnected VoIP providers of all sizes. Multiple competitive LECs provide this service, which is an important input to many consumer and enterprise VoIP services. Years ago, Free Conferencing first obtained inbound voice services from Inteliquent in several markets. Over time, the amount of traffic Inteliquent terminates to (continued...)”)

allegations has anything to do with the Transaction, and can thus be dismissed by the Commission on multiple grounds.

CarrierX also neglects to point out in its comments that it has a long-standing commercial dispute with Inteliquent, which is the subject of ongoing litigation. In a recent summary judgment ruling, the United States District Court for the Northern District of Illinois awarded Inteliquent significant damages, holding that Free Conferencing and related entities had committed a civil conspiracy and unjustly received benefits at Inteliquent's expense.<sup>9</sup> The Court also allowed other claims by Inteliquent against CarrierX and related entities to proceed to trial (including civil RICO claims). The Commission recently cited extensively to record evidence developed in this lawsuit in a decision granting a formal complaint against another CarrierX-related entity, Wide Voice, LLC ("Wide Voice").<sup>10</sup> It thus is unsurprising that CarrierX, its owner, and its owner's other companies are motivated to file nuisance pleadings against Inteliquent, particularly while Inteliquent continues to pursue claims against them in federal court. But CarrierX's comments have nothing to do with the Transaction, and its motivations are both cynical and transparent.

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Free Conferencing has decreased. In any event, there is nothing unusual or controversial about inbound voice service.").

<sup>9</sup> *Inteliquent, Inc. v. Free Conferencing Corp. et al.*, 503 F.Supp.3d 608 (N.D. Ill. 2020).

<sup>10</sup> See *AT&T Corp., AT&T Services, Inc., and MCI Communications Services LLC v. Wide Voice, LLC*, Bureau ID No. EB-20-MD-005, Memorandum Opinion and Order at 24-27 (June 9, 2021) ("*Wide Voice Order*") (explaining the connections and relationships between and among David Erickson, HDPSTN, LLC d/b/a HD Tandem, Wide Voice, Carrier X, Free Conferencing, and HD Carrier, LLC). In this decision, the Commission found that "Wide Voice and its closely related entities engaged in a scheme to evade the access stimulation rules". *Id.* at para. 37.

## II. THE COMMISSION SHOULD DISREGARD CARRIERX’S UNTIMELY, COLLATERAL ATTACK ON THE FCC’S WAIVER DECISION IN AN UNRELATED MATTER.

The vast majority of CarrierX’s comments attempt to make a collateral attack on a waiver order granted by the Wireline Competition Bureau after full consideration of the facts in a separate and unrelated proceeding.<sup>11</sup> The Commission should disregard what is at best an untimely petition for reconsideration of the Bureau’s final order.

In March 2020, Inteliquent sought a limited waiver<sup>12</sup> of the Commission’s access stimulation rules to allow it “to continue to support a massive surge in demand for conference calling services as the American people move *en masse* from work in the office to remote work during the COVID-19 pandemic—in short, to help keep Americans connected during this time of national emergency.”<sup>13</sup> The Commission granted Inteliquent’s request for such a waiver because it satisfied the Commission’s rigorous requirement that the waiver must serve the public interest. In contrast, CarrierX’s own waiver request was met with strong opposition.<sup>14</sup>

Inteliquent narrowly tailored the nature of its waiver requests to ensure that the limited relief would be carefully calibrated to the cause and extent of the issues it began experiencing after the onset of the global pandemic. Inteliquent supplemented the record with additional data

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<sup>11</sup> See generally Comments of CarrierX at 6-12.

<sup>12</sup> In addition to the initial waiver request, Inteliquent sought and received four renewals of its waiver request, the most recent of which was granted on March 23, 2021.

<sup>13</sup> Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission’s Rules, WC Docket No. 18-155 at 1 (filed Mar. 17, 2020).

<sup>14</sup> See, e.g., *Opposition of AT&T to Petition for Temporary Waiver*, WC Docket No. 18-155 at 2-3 (filed Apr. 10, 2020) (opposing a petition for waiver filed by “Free Conference Corporation (doing business in part as Carrier X)” and stating “Movants are known high-volume calling service providers, and known partners in many of the ‘free’ conference access stimulation arbitrage schemes . . . They are the poster children for what the *Access Arbitrage Order* and the Commission’s new rules were enacted to remedy, and now they are trying to use the nation’s focus on the COVID-19 crisis to protect their business schemes.”) (internal citations omitted).

requested by the Bureau to ensure that the waivers would serve the public interest, and even submitted this additional data under a protective order to enable other interested parties to view it for themselves.<sup>15</sup> Thus, CarrierX’s attempt to disguise its frustration that Inteliquent met the standard for a waiver as an alleged lack of candor is even further afield of reality.

Contrary to CarrierX’s false allegations that Inteliquent is engaged in access stimulation,<sup>16</sup> the Bureau confirmed that “based on the record before us we find that Inteliquent is not stimulating traffic... Moreover, before [the onset of the COVID-19 pandemic in March 2020], Inteliquent’s traffic ratios were sufficiently balanced so that it did not meet the definition of an access-stimulating local exchange carrier.”<sup>17</sup> And the Commission has continued to defend its decision to grant the waivers in response to other collateral attacks by CarrierX (and related parties) in litigation before the United States Court of Appeals for the District of Columbia Circuit.<sup>18</sup>

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<sup>15</sup> See, e.g., Letter from Matthew S. DelNero and Thomas G. Parisi, Counsel for Onvoy, LLC d/b/a Inteliquent to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-155 (filed June 9, 2020) (filing highly confidential call volume data subject to the protective order adopted in the proceeding).

<sup>16</sup> See, e.g. Comments of CarrierX at 2.

<sup>17</sup> *Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission’s Rules*, WC Docket No. 18-155, Order, 35 FCC Rcd 2934, 2938 at para. 14 (2020); see also *id.* at 2939, para. 16, n. 42 (“We also reject as unnecessary and unsupported in the record, Free Conferencing’s apparent suggestion that Inteliquent’s non-conference calling high-volume terminating traffic be subject to the access stimulation triggers. Free Conferencing does not offer any basis for finding that Inteliquent serves access-stimulating customers. Indeed, even with two large conference calling provider customers, Inteliquent’s traffic before the onset of the pandemic did not meet the access stimulation triggers.”).

<sup>18</sup> See, e.g. Br. for Respondents Federal Communications Commission and United States of America, *Great Lakes Communications Corp. et al. v. Federal Communications Commission; United States of America*, D.C. Cir, Case Nos. 19-1233 and 19-1244 at 23 (“Petitioners are not ‘similarly situated’ to Inteliquent. Inteliquent obtained a temporary waiver from FCC staff because (among other things) it demonstrated that it was not previously engaged in access stimulation. Petitioners have not even attempted to make such a showing.”) (internal citations omitted).

Rather than seeking a petition for reconsideration of Inteliquent’s temporary waiver, CarrierX comes in some fifteen months after the first waiver approval and almost three months since the most recent waiver extension to claim for itself the right to require the Bureau to re-open and interrogate Inteliquent’s waiver request. The Bureau reasonably concluded that the waiver and each renewal was justified and in the public interest. Inteliquent was forthcoming with Commission staff, and responsive to the Commission’s questions. Accordingly, the candor accusations levied by CarrierX are baseless, and the “competitive conditions” CarrierX seeks to attach to approval of this Transaction have absolutely nothing at all to do with the Transaction.<sup>19</sup>

### **III. CARRIERX’S UNSUPPORTED ALLEGATIONS ABOUT COMPETITIVE HARM BEAR NO MERIT.**

After devoting the bulk of its comments to a collateral attack on a waiver that the Commission has repeatedly determined to be justified and in the public interest, CarrierX concludes with three paragraphs under a heading that suggests the commenter is prepared to articulate a theory of “competitive harm” of the Transaction.<sup>20</sup> Despite the wording of that heading, however, CarrierX merely recycles its criticisms of the Commission’s unrelated waiver order and attempts to cloak them in transaction-specific terms.

Specifically, CarrierX alleges that as a result of the waiver order, Inteliquent today is “able to dominate the now-booming market of supporting high volume calling applications” and “its grip on that market sector will only tighten” following its transaction with Sinch US and its affiliates.<sup>21</sup> As explained above, and as found by the Commission, Inteliquent is not engaged in access stimulation. Indeed, Inteliquent has no interest in the allegedly “booming” market of

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<sup>19</sup> See Comments of CarrierX at 14.

<sup>20</sup> Comments of CarrierX at 13 (purporting to address “THE COMPETITIVE HARM OF THE PROPOSED TRANSACTION”).

<sup>21</sup> *Id.*



serving free conferencing services, such as those provided by the group of entities that the Commission has found to be “closely related” to CarrierX.<sup>22</sup> More to the point, CarrierX makes no attempt to explain how even if Inteliquent *were* serving that market niche, Sinch US’s acquisition of the company would somehow change the competitive dynamic. In short, CarrierX concludes its comments just as they began: with unfounded allegations that, even if true, would have no bearing on the Transaction that is before the Commission.<sup>23</sup>

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<sup>22</sup> See, e.g., *Wide Voice Order* at para. 23 (“Here, the record establishes that Wide Voice, in concert with closely related companies, acted to evade the Commission’s access stimulation rules by rearranging traffic flows to preserve the ability to impose tandem access charges on IXCs that it otherwise could not charge.”).

<sup>23</sup> See, e.g., *Domestic Section 214 Application Filed for the Transfer of Control of Hawaiian Telecom, Inc. & Hawaiian Telecom Servs. Co., Inc., Debtors-in-Possession*, Public Notice, 25 FCC Red. 13149, 13151(WCB 2010) (“The Commission generally will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction at issue.”).

## CONCLUSION

The Applicants have demonstrated that acquisition of Inteliquent, Inc. and the other Authorization Holders by Sinch US will serve the public interest, convenience, and necessity. The sole party to raise any objection to the Transaction is plainly motivated by private commercial considerations, and it has failed to articulate any transaction-specific concern. Consistent with well-established Commission precedent, the Commission should reject the sole commenter's attempt to leverage the transaction review process for private gain.

Respectfully submitted,

/s/ Ronald W. Del Sesto

Ronald W. Del Sesto  
Brett P. Ferenchak  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave., N.W.  
Washington, DC 20004-2541  
Tel: 202-739-3000  
ronald.delsesto@morganlewis.com  
brett.ferenchak@morganlewis.com

/s/ Matthew S. DelNero

Matthew S. DelNero  
Thomas G. Parisi  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, DC 20001  
Tel: 202-662-6000  
mdelnero@cov.com  
tparisi@cov.com

*Counsel for GTCR Onvoy Holdings, LLC*

/s/ John T. Nakahata

John T. Nakahata  
Brita D. Strandberg  
HARRIS, WILTSHIRE & GRANNIS LLP  
1919 M Street NW  
8th Floor  
Washington, D.C. 20036-3537  
Tel: 202-730-1320  
jnakahata@hwglaw.com  
BStrandberg@hwglaw.com

*Counsel for Sinch US Holding Inc.*

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