

ARTICLE 9

TELECOMMUNICATIONS POLICY

151.12 Section 1. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision
151.13 to read:

151.14 Subd. 10. **Voice-over-Internet protocol service.** "Voice-over-Internet protocol service"
151.15 or "VoIP service" means any service that (1) enables real-time two-way voice
151.16 communications that originate from or terminate at the user's location in Internet protocol
151.17 or any successor protocol, and (2) permits users generally to receive calls that originate on
151.18 the public switched telephone network and terminate calls to the public switched telephone
151.19 network.

151.20 Sec. 2. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision to
151.21 read:

151.22 Subd. 11. **Internet protocol-enabled service.** "Internet protocol-enabled service" or
151.23 "IP-enabled service" means any service, capability, functionality, or application provided
151.24 using Internet protocol, or any successor protocol, that enables an end user to send or receive
151.25 a communication in Internet protocol format or any successor format, regardless of whether
151.26 that communication is voice, data, or video.

151.27 Sec. 3. **[237.037] VOICE-OVER-INTERNET PROTOCOL SERVICE AND**
151.28 **INTERNET PROTOCOL-ENABLED SERVICE.**

151.29 Subdivision 1. **Regulation prohibited.** Except as provided in this section, no state
151.30 agency, including the commission and the Department of Commerce, or political subdivision
151.31 of this state shall by rule, order, or other means directly or indirectly regulate the entry,
152.1 rates, terms, quality of service, availability, classification, or any other aspect of VoIP service
152.2 or IP-enabled service.

152.3 Subd. 2. **VoIP regulation.** (a) To the extent permitted by federal law, VoIP service is
152.4 subject to the requirements of sections 237.49, 237.52, 237.70, and 403.11 with regard to
152.5 the collection and remittance of the surcharges governed by those sections.

152.6 (b) A provider of VoIP service must comply with the requirements of chapter 403
152.7 applicable to the provision of access to 911 service by service providers, except to the extent
152.8 those requirements conflict with federal requirements for the provision of 911 service by
152.9 VoIP providers under Code of Federal Regulations, title 47, part 9. A VoIP provider is
152.10 entitled to the benefit of the limitation of liability provisions of section 403.07, subdivision
152.11 5. Beginning June 1, 2017, and continuing each June 1 thereafter, each VoIP provider shall
152.12 file a plan with the commission describing how it will comply with the requirements of this

ARTICLE 2

COMMERCE

39.15 Sec. 17. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision to
39.16 read:

39.17 Subd. 10. **Voice-over-Internet protocol service.** "Voice-over-Internet protocol service"
39.18 or "VoIP service" means any service that (1) enables real-time two-way voice
39.19 communications that originate from or terminate at the user's location in Internet protocol
39.20 or any successor protocol, and (2) permits users generally to receive calls that originate on
39.21 the public switched telephone network and terminate calls to the public switched telephone
39.22 network.

39.23 Sec. 18. Minnesota Statutes 2016, section 237.01, is amended by adding a subdivision to
39.24 read:

39.25 Subd. 11. **Internet protocol-enabled service.** "Internet protocol-enabled service" or
39.26 "IP-enabled service" means any service, capability, functionality, or application provided
39.27 using Internet protocol, or any successor protocol, that enables an end user to send or receive
39.28 a communication in Internet protocol format or any successor format, regardless of whether
39.29 that communication is voice, data, or video.

40.1 Sec. 19. **[237.037] VOICE-OVER-INTERNET PROTOCOL SERVICE AND**
40.2 **INTERNET PROTOCOL-ENABLED SERVICE.**

40.3 Subdivision 1. **Regulation prohibited.** Except as provided in this section, no state
40.4 agency, including the commission and the Department of Commerce, or political subdivision
40.5 of this state shall by rule, order, or other means directly or indirectly regulate the entry,
40.6 rates, terms, quality of service, availability, classification, or any other aspect of VoIP service
40.7 or IP-enabled service.

40.8 Subd. 2. **VoIP regulation.** (a) To the extent permitted by federal law, VoIP service is
40.9 subject to the requirements of sections 237.49, 237.52, 237.70, and 403.11 with regard to
40.10 the collection and remittance of the surcharges governed by those sections.

40.11 (b) A provider of VoIP service must comply with the requirements of chapter 403
40.12 applicable to the provision of access to 911 service by service providers, except to the extent
40.13 those requirements conflict with federal requirements for the provision of 911 service by
40.14 VoIP providers under Code of Federal Regulations, title 47, part 9. A VoIP provider is
40.15 entitled to the benefit of the limitation of liability provisions of section 403.07, subdivision
40.16 5. Beginning June 1, 2017, and continuing each June 1 thereafter, each VoIP provider shall
40.17 file a plan with the commission describing how it will comply with the requirements of this

152.13 paragraph. After its initial filing under this paragraph, a VoIP provider shall file with the
 152.14 commission either an update of the plan or a statement certifying that the plan and personnel
 152.15 contact information previously filed is still current.

152.16 Subd. 3. **Relation to other law.** Nothing in this section restricts, creates, expands, or
 152.17 otherwise affects or modifies:

152.18 (1) the commission's authority under the Federal Communications Act of 1934, United
 152.19 States Code, title 47, sections 251 and 252;

152.20 (2) any applicable wholesale tariff or any commission authority related to wholesale
 152.21 services;

152.22 (3) any commission jurisdiction over (i) intrastate switched access rates, terms, and
 152.23 conditions, including the implementation of federal law with respect to intercarrier
 152.24 compensation, or (ii) existing commission authority to address or affect the resolution of
 152.25 disputes regarding intercarrier compensation;

152.26 (4) the rights of any entity, or the authority of the commission and local government
 152.27 authorities, with respect to the use and regulation of public rights-of-way under sections
 152.28 237.162 and 237.163;

152.29 (5) the establishment or enforcement of standards, requirements or procedures in
 152.30 procurement policies, internal operational policies, or work rules of any state agency or
 152.31 political subdivision of the state relating to the protection of intellectual property; or

153.1 (6) the authority of the attorney general to apply and enforce chapters 325C to 325G,
 153.2 325K to 325M, and other laws of general applicability governing consumer protection and
 153.3 trade practices.

153.4 Subd. 4. **Exemption.** The following services delivered by IP-enabled service are not
 153.5 regulated under this chapter:

153.6 (1) video services provided by a cable communications system, as defined in section
 153.7 238.02, subdivision 3;

153.8 (2) cable service, as defined in United States Code, title 47, section 522, clause (6); or

153.9 (3) any other IP-enabled video service.

153.10 Subd. 5. **Preservation of existing landline telephone service.** Nothing in this section
 153.11 restricts, creates, expands, or otherwise affects or modifies the obligations of a telephone

40.18 paragraph. After its initial filing under this paragraph, a VoIP provider shall file with the
 40.19 commission either an update of the plan or a statement certifying that the plan and personnel
 40.20 contact information previously filed is still current.

40.21 Subd. 3. **Relation to other law.** Nothing in this section restricts, creates, expands, or
 40.22 otherwise affects or modifies:

40.23 (1) the commission's authority under the Federal Communications Act of 1934, United
 40.24 States Code, title 47, sections 251 and 252;

40.25 (2) any applicable wholesale tariff or any commission authority related to wholesale
 40.26 services;

40.27 (3) any commission jurisdiction over (i) intrastate switched access rates, terms, and
 40.28 conditions, including the implementation of federal law with respect to intercarrier
 40.29 compensation, or (ii) existing commission authority to address or affect the resolution of
 40.30 disputes regarding intercarrier compensation;

40.31 (4) the rights of any entity, or the authority of the commission and local government
 40.32 authorities, with respect to the use and regulation of public rights-of-way under sections
 40.33 237.162 and 237.163;

41.1 (5) the establishment or enforcement of standards, requirements or procedures in
 41.2 procurement policies, internal operational policies, or work rules of any state agency or
 41.3 political subdivision of the state relating to the protection of intellectual property; or

41.4 (6) the authority of the attorney general to apply and enforce chapters 325C to 325G
 41.5 and 325K to 325M or other laws of general applicability governing consumer protection
 41.6 and trade practices.

41.7 Subd. 4. **Exemption.** The following services delivered by IP-enabled service are not
 41.8 regulated under this chapter:

41.9 (1) video services provided by a cable communications system, as defined in section
 41.10 238.02, subdivision 3;

41.11 (2) cable service, as defined in United States Code, title 47, section 522, clause (6); or

41.12 (3) any other IP-enabled video service.

41.13 Subd. 5. **Preservation of existing landline telephone service.** Nothing in this section
 41.14 restricts, creates, expands, or otherwise affects or modifies the obligations of a telephone

153.12 company under this chapter to offer landline telephone service that is not Voice-over-Internet
153.13 protocol service.

153.14 Sec. 4. [237.417] PERSONAL INFORMATION; PROHIBITION.

153.15 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
153.16 the meanings given them.

153.17 (b) "Covered entity" means an entity, including a search engine service, social media,
153.18 or other Web-based application, that collects personally identifiable information from a
153.19 consumer by means of the Internet.

153.20 (c) "Express approval" means an affirmative act of the consumer provided in writing or
153.21 by electronic means. The affirmative act providing express approval must be made in a
153.22 separate document or form that contains no approval by a consumer of any other contractual
153.23 provision.

153.24 (d) "Internet service provider" has the meaning given in section 325M.01, subdivision
153.25 3.

153.26 (e) "Minnesota facilities" means the facilities of a telecommunications or Internet service
153.27 provider covered by or subject to a franchise agreement, right-of-way agreement, or other
153.28 contract with the state of Minnesota or a political subdivision.

153.29 (f) "Personally identifiable information" means information that identifies:

153.30 (1) a consumer by physical or electronic address or telephone number;

41.15 company under this chapter to offer landline telephone service that is not Voice-over-Internet
41.16 protocol service.

41.17 Sec. 20. Minnesota Statutes 2016, section 237.295, is amended by adding a subdivision
41.18 to read:

41.19 Subd. 2a. Assessment of costs related to providers of Voice-over-Internet protocol
41.20 service. The department and the commission may assess their actual regulatory costs directly
41.21 related to implementation of section 237.037 with respect to providers of Voice-over-Internet
41.22 protocol service. The total amount that may be assessed to all providers of
41.23 Voice-over-Internet protocol service under this subdivision shall not exceed the lesser of
41.24 either the department and commission's actual regulatory costs directly related to
41.25 implementation of this section in calendar years 2019, 2020, and 2021, or \$625,000 in
41.26 calendar year 2019, \$925,000 in calendar year 2020, and \$1,200,000 in calendar year 2021,
41.27 respectively.

41.28 Sec. 21. [237.417] PERSONAL INFORMATION; PROHIBITION.

154.1 (2) a consumer as having requested or obtained specific materials or services from an
154.2 Internet service provider;

154.3 (3) Internet or online sites visited by a consumer; or

154.4 (4) any of the contents of a consumer's data-storage devices.

154.5 (g) "Telecommunications service provider" has the meaning given in section 237.01,
154.6 subdivision 6b.

154.7 Subd. 2. **Service provider; prohibition.** A telecommunications or Internet service
154.8 provider that has entered into a franchise agreement, right-of-way agreement, or other
154.9 contract with the state of Minnesota or a political subdivision may not sell, share, or otherwise
154.10 distribute personally identifiable information from a consumer, or use such information for
154.11 direct advertising or other content, without express approval from the consumer.

154.12 Subd. 3. **Covered entity; prohibition.** A covered entity may not sell, share, or otherwise
154.13 distribute personally identifiable information from any Minnesota consumer, or use such
154.14 information for direct advertising, without express approval of the consumer if the covered
154.15 entity used Minnesota facilities to obtain personally identifiable information from any
154.16 Minnesota consumer, even if the covered entity was not a party to a contract with the state
154.17 of Minnesota at the time the personally identifiable information was obtained. This provision
154.18 applies to personally identifiable information obtained from any Minnesota consumer, even
154.19 if the personally identifiable information was not obtained through the use of Minnesota
154.20 facilities.

154.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

154.22 Sec. 5. **[237.418] DIGITAL DEVICE MICROPHONE; CONDITIONS FOR REMOTE**
154.23 **ACCESS.**

154.24 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
154.25 subdivision have the meanings given them.

154.26 (b) "Digital device" means a smartphone, tablet, television, computer, car, toy, home
154.27 appliance, or any other device that contains a microphone that can be activated remotely
154.28 by a private entity without the knowledge of the user and can transmit sound from the
154.29 location of the digital device to a remote location where it can be recorded and stored.

41.29 No telecommunications or Internet service provider that has entered into a franchise
41.30 agreement, right-of-way agreement, or other contract with the state of Minnesota or a
41.31 political subdivision, or that uses facilities that are subject to such agreements, even if it is
41.32 not a party to the agreement, may collect personal information from a customer resulting
42.1 from the customer's use of the telecommunications or Internet service provider without
42.2 express written approval from the customer. No such telecommunication or Internet service
42.3 provider shall refuse to provide its services to a customer on the grounds that the customer
42.4 has not approved collection of the customer's personal information.

42.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

154.30 (c) "Private entity" means any individual, partnership, corporation, limited liability
154.31 company, association, or other group, however organized. "Private entity" does not include
154.32 a state or local government agency.

155.1 (d) "User" means a person who purchases, leases, or otherwise regularly uses a digital
155.2 device.

155.3 Subd. 2. **Digital device microphone; requirements for access.** No private entity may
155.4 activate or enable, cause to be activated or enabled, or otherwise use a digital device's
155.5 microphone to listen to, transmit, store, or disclose information unless it first:

155.6 (1) informs the user in writing that the microphone in the user's digital device will be
155.7 activated, enabled, or used by the private entity;

155.8 (2) informs the user in writing of the frequency and length of time the microphone will
155.9 be activated, enabled, or used by the private entity;

155.10 (3) informs the user in writing of the specific categories of information the microphone
155.11 will be listening for, transmitting, and storing;

155.12 (4) informs the user in writing of the specific purpose for which the information will be
155.13 collected, used, or stored, and to whom it may be disclosed; and

155.14 (5) receives the informed, written consent of the user, including through electronic
155.15 means, or the user's authorized agent, representative, or guardian, that:

155.16 (i) is in a form distinct and separate from any form setting forth other legal or financial
155.17 obligations of the user;

155.18 (ii) is given in advance of the time the microphone is activated, enabled, or used; and

155.19 (iii) runs for a specified period of time or until consent is withdrawn by the user,
155.20 whichever is sooner.

155.21 Subd. 3. **Prohibitions.** The provisions of this section may not be waived by a user or
155.22 private entity. Any agreement that does not comply with the applicable provisions of this
155.23 section is void and unenforceable.

155.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.