

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

In the Matter of)	
)	
Telephone Number Requirements for)	WC Docket No. 07-243
IP-Enabled Services Providers; Local)	WC Docket No. 07-244
Number Portability Porting Interval)	
and Validation Requirements)	
)	
)	

**COMMENTS OF THE
VOICE ON THE NET ("VON") COALITION**

The Voice on the Net Coalition ("VON Coalition")¹ respectfully submits these comments regarding telephone number portability and additional N11 requirements for IP-enabled services Providers.

The Federal Communications Commission ("Commission") adopted a Notice of Proposed Rulemaking last year seeking comment on issues associated with the implementation of Local Number Portability ("LNP") for users of interconnected VoIP services. The Commission also sought comment on whether any of its numbering requirements, in addition to LNP, should be extended to Interconnected VoIP providers, and whether the Commission

¹ The Voice on the Net or VON Coalition consists of leading VoIP companies, on the cutting edge of developing and delivering voice innovations over Internet. The coalition, which includes AT&T, BT Americas, CallSmart, Cisco, CommPartners, Covad, EarthLink, Google, iBasis, i3 Voice and Data, Intel, Microsoft, New Global Telecom, PointOne, Pulver.com, Skype, T-Mobile USA, USA Datanet, and Yahoo! works to advance regulatory policies that enable Americans to take advantage of the full promise and potential of VoIP. The Coalition believes that with the right public policies, Internet based voice advances can make talking more affordable, businesses more productive, jobs more plentiful, the Internet more valuable, and Americans more safe and secure. Since its inception, the VON Coalition has promoted pragmatic policy choices for unleashing VoIP's potential. <http://www.von.org>.

should adopt rules specifying the length of porting intervals or other details of the porting process.²

The VON Coalition strongly supports the Commission's goal of enabling voice competition by streamlining and speeding the telephone number porting process. Swift and efficient number portability is a key to enabling VoIP competition. Spurring VoIP-enabled competition, in turn, can save consumers an astounding \$110 billion over the next five years – putting real money back into consumers' pockets through the power of competition at a time when families really need it.³

Changes to or adoption of additional LNP and N11 number requirements for Interconnected VoIP providers at this time, however, is neither necessary nor justified.

I. The Commission Should Give its Existing LNP Rules An Opportunity To Work Before Considering Potentially Counterproductive Changes.

In its November 2007 Order, the Commission extended LNP obligations to Interconnected VoIP providers and their numbering partners in order to ensure that users of interconnected VoIP services have the ability to port

² *Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531 (2007) ("Order").*

³ See Micra report (available online at http://www.micradc.com/news/publications/pdfs/Updated_MiCRA_Report_FINAL.pdf) (finding that VoIP competition can save consumers in 110 billion over the next five years).

their telephone numbers when changing service providers to or from an Interconnected VoIP provider.

The Commission's decisive action to enable VoIP consumers to port their numbers should be given a chance to work and then observed in order to assess the effectiveness of the Commission's actions. Additional changes in rules at this time, before the Commission is able to assess the success of its only recently adopted LNP rules for Interconnected VoIP providers and without evidence of any problem, will likely result in costs far exceeding the benefits afforded to consumers. It would also be likely to stall and stifle the very competition that the Commission cited as justification for applying its LNP rules to Interconnected VoIP in the first place.⁴ Furthermore, the adoption of any additional mandates for Interconnected VoIP providers, before the Commission has had an opportunity to assess the success of its only recently-adopted requirements, would be unjustified and, as a result, arbitrary and capricious.

In its *Order*, the Commission specifically declined "*to adopt new porting intervals that apply specifically to ports between interconnected VoIP*

⁴ See *Order* ¶ 2, "Consumers will now be able to take advantage of new telephone services without losing their telephone numbers, which should in turn facilitate greater competition among telephony providers by allowing customers to respond to price and service changes." See also *id.* at ¶ 16, "In this Order, we undertake several steps to help ensure that consumers and competition benefit from LNP as intended by the Act and Commission precedent." See also *id.* at ¶ 17, "Allowing customers to respond to price and service changes without changing their telephone numbers will enhance competition, a fundamental goal of section 251 of the Act, while helping to fulfill the Act's goal of facilitating "a rapid, efficient, Nationwide, and world-wide wire and radio communication service."

*providers and other providers through a numbering partner.*⁵ Nothing has changed that warrants a change in the Commission's initial assessment. No additional porting intervals should be adopted for ports between Interconnected VoIP providers and other providers through a numbering partner.

However, there are two specific issues sparked by the Commission's *Order* which must be vigilantly watched to assure that the Commission's stated goal in the order to "facilitate greater competition among telephony providers"⁶ is not thwarted.

First, in its *Order* the Commission indicated that if an interconnected VoIP provider or its partner "*attempts to thwart an end user's valid porting request, that provider or carrier will be subject to Commission enforcement action for a violation of the Act and the Commission's LNP rules.*"⁷ We ask the Commission to closely watch efforts, including a recent effort in Missouri, which would prevent Interconnected VoIP providers from porting numbers to its service.⁸ The Commission should not tolerate unilateral carrier action or

⁵ *Id.* ¶ 36.

⁶ *Id.* ¶ 1.

⁷ *Id.* ¶ 33.

⁸ See, e.g., *Application or Petition of Alma Communications Company, d/b/a Alma Telephone Company for Modifications of the Federal Communications Commission Requirements to Implement Number Portability and Dialing Parity for Indirectly Interconnected Voice over Internet Protocol Providers* (filed at Missouri PUC Dec. 19, 2007) (seeking elimination of FCC local number portability and dialing parity requirements until the issues pertaining to call rating, call routing, and call transport to VoIP providers not directly interconnected to rural LECs are addressed by the FCC).

state rules that prevent Interconnected VoIP providers from porting numbers to its service.

Second, the VON Coalition is concerned about allegations made to the Commission by Bright House Networks, Comcast Corporation, and Time Warner Cable in a complaint asserting that number porting requests from Interconnected VoIP providers may have been used to trigger retention marketing practices in violation of Section 222 of the Act.⁹

II. Given the Extraordinary Progress that Interconnected VoIP Providers Are Making, No Additional N11 Requirements Are Necessary At This Time.

Abbreviated N11 dialing codes enable a caller to connect to a location in the network that otherwise would be accessible only via a seven- or ten-digit telephone number. The Commission already requires Interconnected VoIP providers to supply 911 emergency calling capabilities and to offer 711 abbreviated dialing for access to telephone relay services. The Commission seeks comment on the benefits and burdens, including the burdens on small entities, of requiring interconnected VoIP providers to comply with N11 code assignments or other numbering requirements.¹⁰

⁹ See *Bright House Networks, LLC, Comcast Corp. and Time Warner Cable v. Verizon*, EB-08-MD-002 (filed Feb.11, 2008) (alleging that Verizon is inappropriately using information generated by the Local Service Requests ("LSRs") submitted by competing carriers to port the customers' telephone numbers to the new carrier to initiate contact with those customers in an effort to convince them to stay with Verizon in contravention of Section 222(b) of the Act).

¹⁰ See *Order* ¶ 53.

Interconnected VoIP providers are making enormous progress implementing additional N11 dialing features without any Commission action.¹¹ One of the most important N11 code assignments (411) enables their ability to reach directory assistance. All Interconnected VoIP users are today able to access free voice-activated directory assistance service through one of several free VoIP-enabled directory services.¹² In addition, Interconnected VoIP services often are able to provide more than just directory assistance with a 411 service. In some cases, 411 dialing capabilities also includes access to information about movie listings, airline flight times, ATM locations, weather, sports scores and news, stock quotes, lottery results, accurate time of day anywhere on earth, and even horoscopes.¹³ Interconnected VoIP users also have access to third-party directory assistance tools that can text message information and send the user a link to a map.¹⁴ With this abundance of capabilities now emerging in the marketplace, no additional Commission

¹¹ For example, Vonage's web site lists among the more than two-dozen features and benefits it provides with its services -- 211 Dialing, 311 Dialing, 411 Enhanced Dialing, 511 Traveler Information, and 811 Dialing. See <http://www.vonage.com/features.php>.

¹² Some free 411 services include 1-800-GOOG-411, 1-800-555-TELL, 1-800-411-SAVE, and 1-800-FREE-411. By connecting with the VoIP enabled TellMe Service at 1-800-555-TELL (8355), users are able to combine VoIP, voice recognition, and a voiceXML database to receive directory assistance, Driving Directions, Restaurant Reviews, Sports, Weather, News, Stock Quotes, Movies times, Travel information and more. See: <http://www.tellme.com/products/TellmeByVoice/faqs>.

¹³ See, e.g., <http://www.vonage.com/features.php?feature=411> and http://www.comcast.com/MediaLibrary/1/1/Customers/Customer_Support/Comcast_Digital_Voice/CDV/CDV_General/Directory_Assistance_features.pdf.

¹⁴ For example, VoIP enabled free directory assistance tools like 1-800-GOOG-411 can be accessed from any Interconnected VoIP phone. The user merely says where they are and what they're looking for, and the service will connect the users with the business they choose. See: <http://www.google.com/goog411/>.

action on 411 dialing or other N11 code capabilities for Interconnected VoIP providers is necessary at this time.

The VON Coalition is especially proud of the incredible progress that Interconnected VoIP providers have made on Commission priorities – including 911 and 711 dialing – under very short implementation timeframes.¹⁵ However, to the extent that the Commission finds it needs to require additional N11 requirements for parity reasons (and the VON Coalition does not believe that any additional requirements are necessary at this time), the Commission must also provide parity in implementation timeframes and provide sufficient time for providers to implement concurrent new responsibilities. For example, although some Interconnected VoIP providers are making great progress on N11 dialing capabilities without a Commission mandate,¹⁶ in the Commission’s *Sixth Report and Order* on N11 dialing, the Commission found that two years was a reasonable time period for implementing a new 3-digit dialing code obligation.¹⁷ Accordingly, the Commission should provide no less than two years for Interconnected VoIP providers to implement any additional N11 requirements, and additional requirements should occur in succession rather than simultaneously.

¹⁵ For example, Interconnected VoIP providers have achieved the fastest and broadest one time E911 roll-out in public safety history.

¹⁶ See, e.g., Vonage’s voluntary 811 dialing implementation, available at <http://www.vonage.com/features.php?feature=811>.

¹⁷ *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Sixth Report and Order, 20 FCC Rcd 5539 ¶ 32 (2005).

Extraordinarily short timeframes for implementing past N11 dialing obligations – that happened concurrently with other new regulatory obligations – have had a devastating impact on the network independent Interconnected VoIP market.¹⁸ Just two years ago, network independent VoIP was the biggest and fastest growing segment of the Interconnected VoIP market. However, in the United States, growth of this form of Internet Communication has come to a screeching halt. Telegeography now describes growth of the nomadic Interconnected VoIP market as “anemic” and “disheartening,” but says it is too early “to write an obituary” for network independent VoIP.¹⁹

In other countries around the world, these Interconnected VoIP services are growing rapidly and unabated – giving consumers new choices never before possible. Unfortunately, a combination of factors have conspired against the availability of these services to consumers in the U.S. including: 1) N11 dialing regulations that too often do not adequately consider the technical and operational feasibility for network independent VoIP services; 2) the fact that network independent services are more often small Internet start-ups with unique economic and operational issues that limit their ability to constantly rip and replace systems on the fly for regulatory purposes;²⁰ and

¹⁸ While there were projections in 2004 that VoIP would account for 40% of all voice traffic by 2007, today, nomadic VoIP accounts for only .6% of all voice subscribers – and growth is quickly approaching zero.

¹⁹ See http://www.telegeography.com/products/voip/pdf/USVoIP_Exec_Summ.pdf.

²⁰ As the Small Business Administration has pointed out, the vast number of Interconnected VoIP providers are small businesses – on average serving a little more than 1,000 customers each. Of 200 Interconnected VoIP providers, the SBA

3) a marketplace previously characterized by low entry barriers is now riddled regulatory uncertainty that has reduced investment and delayed consumer benefits.

While Interconnected VoIP has the potential to introduce additional competition, new services, and extraordinary new benefits to consumers, overly aggressive implementation timetables for N11 dialing capabilities that do not adequately consider the unique characteristics of nomadic Internet communication could further delay the extraordinary benefits of Interconnected VoIP from reaching consumers. Too aggressively implemented regulatory burdens could be sufficient to drain the upstarts' resources, slow them down, and drive more into bankruptcy – leaving consumers with fewer choices, higher prices, less robust services, and impacting the American economy, global competitiveness, and the ability of the Commission to implement a successful broadband agenda.²¹

To the extent the Commission adopts further N11 rules for Interconnected VoIP, however, it should: 1) ensure any additional mandates do not expand rules to services beyond Interconnected VoIP; 2) recognize that these are

office of advocacy estimates that 193 companies are likely to be small businesses that collectively serve less than 200,000 customers – or a little over 1,000 customers apiece. See SBA comments, August 8, 2006.

²¹ The FCC's recently released budget includes performance goals on broadband which include facilitating VoIP as a broadband driver. Specifically on page 20, the FCC is to:
"Support and facilitate the deployment of IP-enabled services such as VoIP to increase consumer demand for broadband technologies. Initiate or adopt items that facilitate the deployment of IP-enabled services as another means of increasing access and competition in broadband services. Ensure that IP-enabled services and broadband platforms are treated in a way that encourages deployment of broadband technologies."

small businesses and adopt sufficient compliance timeframes; and 3) take care not to stifle the creative service offerings in or yet to be in the marketplace.

Conclusion

For these reasons, the Commission should not adopt any additional LNP or N11 numbering requirements at this time.

Respectfully submitted,

THE VON COALITION

 /s/ Angela Simpson
President

Dated: March 24, 2008