

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

In the Matter of))
))
Section 43.62 Reporting Requirements for)	IB Docket No. 17-55
U.S. Providers of International Services))
))
2016 Biennial Review of)	IB Docket No. 16-131
Telecommunications Regulations))
))

To: The Commission

COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (the “VON Coalition”) respectfully files these comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.¹ The VON Coalition fully supports the Commission’s proposal to eliminate the annual Traffic and Revenue Reports. The Commission should also (a) eliminate the Circuit Capacity Reports in their entirety, or (b) streamline the Circuit Capacity Report requirement such that non-common carrier licensees need file Circuit Capacity Reports only with respect to those submarine cables for which they hold a license.

1. The costs of the International Traffic and Revenue Reports far outweigh the resulting benefits (if any) in today’s robust and competitive marketplace.

The VON Coalition filed a Petition for Reconsideration of the FCC’s 2013 decision to extend traffic and revenue reporting requirements to providers of PTSN-connected voice over

¹ *Section 43.62 Reporting Requirements for U.S. Providers of International Services, 2016 Biennial Review of Telecommunications Regulations, Notice of Proposed Rulemaking, IB Dockets No. 17-55, 16-131, 32 FCC Rcd 2606 (2017).*

Internet protocol (“VoIP”) services.² Vonage Holdings Corporation and Bandwidth.com—the only other parties to participate in that proceeding—strongly supported the Petition.³ Although the Commission declined to modify the reporting requirements at that time, the issue resurfaced in comments to the 2016 biennial review of FCC telecommunications regulations, where several parties recommended elimination of the Section 43.62 reporting requirements.⁴ As the Commission acknowledges in the NPRM, “no party wrote in support of retaining these requirements.”⁵

Not surprisingly, commenters in each of these proceedings voiced similar concerns. In response to the VON Petition, commenters (1) challenged the Commission’s statutory authority to extend international reporting requirements to VoIP providers, (2) pointed out that international traffic and revenue information from over-the-top VoIP providers would not inform the Commission about U.S. carrier efforts to achieve cost-based termination rates and fees in foreign countries, and (3) warned that compliance with the requirement would harm the public interest by driving up consumer costs and diverting provider resources away from improving customer service. Commenters in the 2016 biennial review proceeding similarly observed that “these reports serve no apparent purpose, but impose costs on CMRS carriers by requiring them

² *Reporting Requirements for U.S. Service Providers of International Telecommunications Services, Amendment of Part 43 of the Commission’s Rules*, Petition for Reconsideration, IB Docket No. 04-112 (filed Apr. 11, 2013) (“VON Petition”); *see also* 47 C.F.R. § 43.62(b)(2).

³ Comments of Vonage Holdings Corporation, IB Docket No. 04-112 (filed July 16, 2013); Comments of Bandwidth.com Inc., IB Docket No. 04-112 (filed July 16, 2013).

⁴ *See, e.g.*, USTelecom Comments, IB Docket No. 16-131 (filed Dec. 5, 2016); CTIA Comments, IB Docket No. 16-131 (filed Dec. 5, 2016); T-Mobile USA, Inc. Reply Comments, IB Docket No. 16-131 (filed Jan. 3, 2017); AT&T Services Inc. Reply Comments, IB Docket No. 16-131 (filed Jan. 3, 2017).

⁵ NPRM ¶ 9.

to maintain extensive network systems to track and record international revenue and traffic data.”⁶

VON Coalition members have to expend time and money to prepare the traffic and revenue reports, even those that have no or limited international revenue. While VON Coalition members acknowledge the Commission’s effort to streamline the form, providers are employing complex and expensive recording systems to ensure accurate reporting. Providers also must capture and record the information in a manner that enables them to report it to the Commission using the data fields the Commission specifies, or otherwise expend time and effort to transliterate later. And, as the Commission has acknowledged, collection of this data “reveals only a fraction of the overall picture of international communications, a fraction that is likely to grow smaller over time” with the anticipated growth of non-interconnected (and often free-to-the-consumer) international VoIP services.⁷ Moreover, other than collecting the data for the sake of having data, it is not clear how the data is actually used by the Commission or the Bureau. Particularly for VoIP providers, it is unclear whether there is any relationship between the commercial termination agreements that VoIP providers negotiate, and the international, inter-governmental settlements system.

In sum, there is widespread agreement with the Commission’s assessment that “the costs of this data collection . . . now exceed the benefits of the information” such that “international

⁶ CTIA Comments at 11; *see also* AT&T Reply Comments (noting that preparation of tis Traffic and Revenue Report requires nearly 300 person-hours.)

⁷ Further, the VON Coalition maintains that extension of these requirements to interconnected VoIP providers was premised on the flawed assumption that data on PSTN-connected VoIP service is relevant in helping the Commission “to support U.S. service providers’ efforts to achieve cost-based termination rates and fees with other countries, to monitor U.S. international calling rates accurately, and to advise other government agencies of the characteristics of international calling.” *See* VON Petition at 8.

traffic and revenue data collection is no longer necessary.”⁸ The VON Coalition therefore fully supports the Commission’s proposal to eliminate the International Traffic and Revenue Reports.

2. The Commission should narrow or eliminate the Circuit Capacity Reporting requirement.

The Commission acknowledges that the “value of Circuit Capacity Reports is less than it once was with the advent of competition throughout the international marketplace.”⁹ Nevertheless, it asserts that, unlike International Traffic and Revenue Reports, the benefits of Circuit Capacity Reports still exceed data collection costs. The NPRM seeks comment on the Commission’s preliminary determination and on ways to streamline the requirements to minimize the burden on filers.¹⁰

The VON Coalition respectfully maintains that this requirement should be narrowed so as to establish that VoIP and other non-common carriers need file capacity reports only with respect to those submarine cables for which they hold a license. Alternatively, the Commission should remove the requirement altogether.

As explained in the VON Petition, there is no legitimate need for the Commission to require entities that are neither common carriers, nor licensees for the relevant submarine cable, to report on their use of cable capacity.¹¹ The Commission can ensure that common carriage services have access to submarine cable capacity by requiring a licensee for a cable to report available and planned capacity on the cable—as is already required.¹² Accordingly, there was

⁸ NPRM ¶¶ 13, 15.

⁹ NPRM ¶ 23.

¹⁰ NPRM ¶¶ 21-22.

¹¹ See VON Petition at 12-13.

¹² See *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission’s Rules*, Second Report and Order, IB Docket No. 04-112, 28 FCC Rcd 575, 608 ¶ 108(b) (2013).

never a valid reason to impose burdensome circuit capacity reporting requirements on other users of the facility.

Indeed, none of the NPRM’s stated justifications for retaining the Circuit Capacity Reports is aided by requiring an entity that holds a license for a submarine cable to report all capacity it uses on other cables for which it does not hold licenses. The purported benefits of retaining the reports include (1) giving the FCC “a clear understanding of which operators have deployed what facilities where”; (2) helping the FCC and national security agencies “to understand how to protect and secure this critical international infrastructure”; and (3) enabling the FCC to “carry out its statutory obligation to assess regulatory fees on international bearer circuits.”¹³ Such goals are not aided by requiring duplicative reporting from both the licensee for a cable and other non-licensee users of the same facility.

As such, the costs associated with imposing circuit capacity reporting requirements on non-carrier licensees with respect to cables for which they do not hold a license exceed the benefits (if any) of the data collection. The VON Coalition therefore requests that the Commission eliminate or narrow the requirement as proposed herein.

¹³ NPRM ¶ 23.

CONCLUSION

The VON Coalition supports the Commission's proposal to eliminate the International Traffic and Revenue Reports and asks the Commission to eliminate or narrow the Circuit Capacity Report requirements as discussed above.

Respectfully submitted,

VOICE ON THE NET COALITION

/s/ Glenn S. Richards

Glenn S. Richards

Jessica T. Nyman

Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, NW
Washington, DC 20036
(202) 663-8000

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Its Attorneys