

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

In the Matter of)	
)	
Numbering Policies for Modern Communications)	WC Docket No. 13-97
)	
Telephone Number Requirements for IP-Enabled Service Providers)	WC Docket No. 07-243
)	
Implementation of TRACED Act Section 6(a) — Knowledge of Customers by Entities with Access to Numbering Resources)	WC Docket No. 20-67
)	
Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership)	IB Docket No. 16-155
)	

COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (VON)¹ submits these comments in response to the Commission’s Second Further Notice of Proposed Rulemaking regarding proposed rules imposing new obligations on interconnected VoIP providers authorized for direct access to telephone numbers from the Numbering Administrator.² In particular, the Commission asks whether certification requirements and disclosure obligations adopted in the Second Report and Order for new applications for direct access should be applied to existing authorization holders. In addition, the Commission proposes to require direct authorization holders that sell, lease or

¹ The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP-enabled communications. For more information, see www.von.org.

² *In the Matter of Numbering Policies for Modern Communications*, Second Report and Order and Second Further Notice of Proposed Rulemaking, Docket Nos. 13-97, 07-243, 20-67 and 16-155 (September 22, 2023) (“Second Further Notice”); see also, 88 Fed. Reg 208 at 74098 (October 30, 2023) (establishing a comment deadline of November 29, 2023).

otherwise provide numbers to another voice service provider (VSP) to obtain certifications from those VSPs as if the VSP was applying for direct access itself.

VON supports robust measures to protect consumers from illegal calls and ensure oversight of scarce numbering resources. However, VON opposes the proposed rules as unnecessary, burdensome and anticompetitive. Adopting these new requirements would not protect against illegal robocalls. More problematic, the proposed rules would be anticompetitive and encourage gaming by bad actors in that they would impose burdens on interconnected VoIP providers and their customers that are not applied to other direct access recipients without any record that the new rules would prevent robocalls.

I. Post-Authorization Reporting Requirements Would be Redundant, Burdensome and Unlikely to Prevent Illegal Robocalls

The Second Further Notice again asks whether existing interconnected VoIP numbering authorization holders should be required to comply with certification obligations adopted in the Second Report and Order for new applicants.³ VON opposed this proposal when raised in response to the Further Notice and opposes it again on the same grounds.⁴ Specifically, the Commission provides no evidence or support that collecting this additional information is likely to result in a reduction in the number of illegal robocalls or will prevent bad actors from

³ Second Further Notice, at paras. 80-81.

⁴ Comments of the Voice on the Net Coalition, WC Docket No. 20-67, at 2-4 (October 21, 2021).

accessing telephone numbers.⁵ Indeed, certifications that simply state that applicants comply or will comply with existing laws are redundant as the Commission has the authority to enforce those laws with or without the inclusion of such certification.⁶

If adopted, one of these obligation would require VoIP providers who hold numbering authorizations to certify compliance with state laws and registration requirements that are applicable to businesses in each state where numbers are requested, separate from any state authority related to telephone numbers.⁷ This obligation ignores the unique nature of VoIP services, particularly their nomadic nature, which challenges traditional geographical-based numbering resource utilization, as well as the varying requirements for state business registration, which may or may not align with the use of numbers in a state. Moreover, once again, the Commission is imposing a standard on interconnected VoIP providers not required of

⁵ VON notes that in almost all cases the bad actors are the calling parties, not the telecom or VoIP service providers. In those rare instances when the FCC ascertains that a VoIP service or gateway provider has openly facilitated, is complicit in, or has ignored or encouraged the use of its network for illegal robocalling, the FCC can take (and has taken) enforcement action to stop that illegal activity. See e.g., Press release, FCC, FCC, FTC Demand Robocall-enabling Service Providers Cut Off COVID-19-related International Scammers (May 20, 2020), <https://docs.fcc.gov/public/attachments/DOC-364482A1.pdf>.

⁶ Similarly, the proposed requirement that applicants certify and provide documentation that the applicant is compliant with 911 and CALEA requirements is far afield from any connection to illegal robocalling, and the Commission has specific enforcement authority if the applicant is not in compliance. See Second Further Notice, at paras. 80-81. In any event, it's unclear what documentation the Commission would accept, in particular since most VoIP providers rely on third party service providers to comply with 911 and CALEA obligations. Would contracts with those third party service providers meet the obligation, or would the Commission then be compelled to confirm those third parties are also in compliance?

⁷ Second Further Notice at paras. 48, 80-81.

any other service provide and divorced of any nexus to the Commission's statutory authority under the Communications Act.

What's more problematic is that the Commission proposes rules for interconnected VoIP providers that are not otherwise imposed on telecommunications carriers. VON supports increased transparency and effective rules that prevent robocalls. To be effective, rules must apply industry wide and be technology neutral. Bad actors will quickly find ways to exploit or get around rules to make illegal and fraudulent calls. The only way to guard against this outcome is to have rules that apply equally to all recipients of numbering resources.

Moreover, creating unnecessary barriers for interconnected VoIP providers to obtain direct access to disserves the public interest in combatting illegal robocalls. Direct access to phone numbers facilitates traceback efforts which, in turn, can help to quickly identify and stop illegal robocalling and other forms of calling fraud. The Commission's numbering rules should be designed to encourage – not discourage – direct access to telephone numbers by all voice service providers regardless of technology or regulatory classification.

Even today (without adoption of any new requirements) telecommunications carriers seeking direct access to phone numbers provide far less information and face a less vigorous review process than interconnected VoIP providers when requesting telephone numbers. In particular those carriers request numbers from the numbering administrator (are not required to

apply with the Commission) and are only required to provide information limited to company name, address, Operating Company Number (OCN), primary type of business numbers will be used, and evidence that that numbers will be used in the area requested.⁸ There is also no opportunity for public comment on those requests, as there is for VoIP provider applications. Thus, existing interconnected VoIP authorization holders have already faced a more vigorous review process, and should not be held to more onerous standards than other voice service providers to maintain those authorizations.

Not only would numbering restrictions hamper efforts to combat robocalls, but there is no basis in the record to single out VoIP providers for disparate regulatory treatment.⁹ For example, the idea that, for the first time, interconnected VoIP numbering authorization holders whose ownership change results in reportable foreign ownership provides the Commission an opportunity to review and change authorization status,¹⁰ will add a cloud of uncertainty to the ongoing operations of the interconnected VoIP provider, raising questions whether the provider will have access to additional numbers during the review process, the implications on both the interconnected VoIP provider and its customer requiring additional numbers if it doesn't, or in

⁸ See 47 C.F.R. § 52.15(g)(X)(A) and Second Further Notice at paras. 28-29.

⁹ VON posits that with SHAKEN now operational in U.S. networks, TDM networks are potentially more susceptible to originating robocalls than VoIP systems.

¹⁰ Id. at para. 26.

the worst case, the ramifications for both if the Commission determines the interconnected VoIP provider should not maintain direct access.

For these same reasons, VON also opposes the proposal to require direct access authorization holders that sell, lease or otherwise provide telephone numbers to a VSP to obtain all the same certification, acknowledgements and disclosures the VSP would have provided had it applied for numbering resources itself, as well as any required updates, retain copies of such certifications, and provide a list to the Commission of those VSPs, including any updates within 30 days of adding a new VSP.¹¹ In particular, VoIP providers already engage in extensive anti-fraud measures including participation in the SHAKEN/STIR protocol, cooperation with the industry traceback group (ITG), updating the Reassigned Number Database, and submitting Robocall Mitigation Plans in the Robocall Mitigation Database (RMD).

Moreover, this obligation is unprecedented. VON is unaware of any other regulated voice, data or video service using any technology that is required to collect and retain such detailed information from its customers and provide the Commission a list of those customers. These additional requirements could hinder VoIP adoption and innovation by encouraging

¹¹ Second Further Notice at para. 87. VON does support the referral of issues related to number use and resale to the North American Numbering Council (NANC). Second Further Notice at para. 68. That said, LECs, CLECs and other providers engage in number resale. To ensure that any safeguards on number use and resale are effective, the NANC should not limit its inquiry to number use and resale by interconnected VoIP providers but instead should be industry wide and technology neutral.

customers to obtain services from CLECs or other non-VoIP service providers not subject to the information collection requirements.¹² The financial and staffing burden on both authorization holders and their customer to collect, maintain and update this information is incalculable. Further, it is not clear how such an overbroad and burdensome information collection will assist the Commission, particularly as it already has broad authority to seek information when needed on a case-by-case basis in the enforcement context. Finally, it would be flatly inconsistent with FOIA to make this sensitive commercial information available to the public.

If the Commission is concerned that VoIP providers may be originating illegal robocalls, it can simply check the RMD to confirm that a VoIP provider is taking all necessary steps to prevent the origination of illegal robocalls on its network, without the need for any of these proposed reporting and compliance obligations. Bad actors can be summarily dismissed from the RMD and effectively put out of business. The Commission can and should use its existing enforcement tools to deter and eliminate illegal robocalls, not to create more bureaucracy.

¹² Many new applications and innovations have been built using numbering resources – these solutions have powered eCommerce, healthcare access, volunteer organizations and the like. The Commission should carefully balance the need for transparency and oversight with the opportunities for innovation that direct number access by VoIP providers has created.

CONCLUSION

The Commission should act in accordance with the recommendations herein

Respectfully submitted,

VOICE ON THE NET COALITION

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