

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matters of	)	
	)	
Consumer Information and Disclosure	)	CG Docket No. 09-158
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170
	)	
IP-Enabled Services	)	WC Docket No. 04-36

**COMMENTS OF THE VOICE ON THE NET COALITION**

The Voice on the Net Coalition (VON Coalition)<sup>1</sup> hereby submits these comments in response to the Commission’s Notice of Inquiry concerning consumer disclosure policies generally and specifically whether the truth-in-billing or other consumer information rules should be extended to providers of interconnected VoIP.<sup>2</sup> The VON Coalition does not support the imposition of specific consumer disclosure on interconnected VoIP providers or any other provider of IP-enabled services. As part of this inquiry, the Commission should take no action before determining whether data regarding interconnected VoIP consumer complaints related to billing practices sufficiently supports the imposition of additional regulatory obligations. To date, there is no evidence that Interconnected VoIP providers or providers of other IP-enabled services are failing to provide consumers clear and non-misleading bills or that billing statements or customer service response to billing questions have led to consumer complaints.

---

<sup>1</sup> The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of VoIP. Its members include Cisco, Covad, Google, iBasis, Intel, Microsoft, New Global Telecom, PointOne, Skype, T-Mobile and Yahoo.

<sup>2</sup> See *Notice of Inquiry (“NOI”)*, FCC 09-68, GN Docket No. 09-158, CC Docket No. 98-170 and WC Docket No. 04-36 (released August 28, 2009).

## BACKGROUND

The truth-in-billing rules were adopted in 1999 to address a growing number of complaints concerning cramming, or the placing of unauthorized or deceptive charges on consumer bills by telecommunications carriers.<sup>3</sup> The rules require generally that carrier bills be clearly organized, identify the service provider, contain full descriptions of charges, and provide information how the consumer can contest the charges.<sup>4</sup> The Commission did not seek to specify bill formats or details, recognizing that service providers were best left to the details, based on their own services and customer needs.

In the NOI, the Commission is seeking comments on the benefit that consumers would derive if the Commission were to extend the truth-in-billing or other consumer information rules to providers of interconnected VoIP, relative to the burden that the requirement would impose on providers.<sup>5</sup> The Commission also seeks comment on whether certain rules may not be necessary for some services, and, if rules are applied, how complaints would be handled.<sup>6</sup> In addition, comments are requested on whether the Commission should require providers to include on their bills information how to contact the service provider via the Internet, or how to contact the Commission to file a complaint.<sup>7</sup>

## DISCUSSION

---

<sup>3</sup> *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, 14 FCC Rcd 7492 (1999) (*Truth-in-Billing Order and/or Further Notice*).

<sup>4</sup> *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 7492, 7496 (1999).

<sup>5</sup> NOI, at para. 18. The Commission notes that this proposal is made in light of the trend for consumers to switch from traditional phone service to interconnected VoIP, citing one study that estimates that 30 million households will use VoIP for home phone service by 2010. Id. at note 42. While these comments focus on interconnected VoIP, we note that the NOI also asks whether the truth in billing rules should be applied to other services, such as broadband Internet access and subscription video. Id. at para 17. The VON Coalition also opposes application of the truth in billing rules to other IP-enabled services, which historically have never been regulated by the Commission.

<sup>6</sup> Id. at paras. 19-20.

<sup>7</sup> Id. at para. 51.

The number of VoIP users is growing and will continue to grow as broadband availability and adoption increase. Consumers are increasingly taking advantage of the benefits of VoIP, including increased mobility, advanced functionality and lower costs. Fixed and nomadic VoIP services have become a mainstay in millions of homes, businesses and government offices throughout the country, and it is expected that mobile VoIP, which allows for the integration of a wireless handsets and VoIP networks and software applications, will provide a transformative experience for millions of wireless customers.<sup>8</sup>

What is less apparent, however, is whether any of these converts to VoIP have raised concerns that could somehow be addressed by expansion of the truth-in-billing rules to interconnected VoIP. When the FCC first began its examination of whether the truth-in-billing rules should be extended in their entirety to wireless carriers, the Commission concluded that there were insufficient wireless consumer complaints to impose the full panoply of obligations. Instead, the Commission waited an additional six years to ensure that it had sufficient data regarding complaints and wireless carrier actions to support the regulatory obligations.<sup>9</sup> Similarly, the growth in the number of VoIP consumers alone does not provide sufficient evidence to conclude that Interconnected VoIP provider bills are leading to consumer confusion and dissatisfaction with current billing practices. The VON Coalition suggests that as part of this inquiry,

---

<sup>8</sup> See, e.g., Nokia and Skype Partnering in Mobile, [http://share.skype.com/sites/en/2009/02/nokia\\_and\\_skype\\_partnering\\_in.html](http://share.skype.com/sites/en/2009/02/nokia_and_skype_partnering_in.html) (Feb. 17, 2009); *Vonage Mobile for iPhone and Blackberry now ready for download*, FierceVoIP, October 5, 2009;

<sup>9</sup> See Second Report and Order, 20 FCC Rcd 6448 at para. 16.

the Commission examine the customer billing complaints related to Interconnected VoIP collected through its online, informal complaint application tool.<sup>10</sup>

The VON Coalition agrees that consumers should have access to clear, well organized, and non-misleading information about the services they are purchasing. However, the market for communications products and applications as well as the underlying telecommunications services has changed dramatically since the Commission first adopted the truth-in-billing requirements. For instance, since broadband access is generally required to purchase interconnected VoIP, one possible explanation is that interconnected VoIP users have access to sufficiently clear information through the Internet. VoIP service provider websites generally have comprehensive information on service plans and offerings, as well as pricing and terms and conditions.<sup>11</sup> There are also online tools and toll- free numbers to provide support for billing or technical problems. For example, Vonage provides an online sample bill that not only includes all services charges but also provides hyperlinks to details about regulatory compliance charges and surcharges.<sup>12</sup>

Moreover, certain characteristics of the interconnected VoIP market differ dramatically from the market for carrier delivered telecommunications services. There are a variety of competitive and complementary VoIP products available to consumers to meet their communications needs. For instance, consumers have the choice of free,

---

<sup>10</sup> The online complaint form can be found at <http://esupport.fcc.gov/complaints.htm>. The VoIP option also includes Internet Service. Presumably the number of complaints filed in this category is so small that the totals do not earn any mention in the Commission's quarterly review of filed complaints and inquiries. See, e.g, Report on Informal Consumer Inquiries and Complaints, 1<sup>st</sup> Quarter Calendar Year 2009, (released September 8, 2009), which can be retrieved at <http://www.fcc.gov/cgb/quarter/welcome.html>

<sup>11</sup> See, e.g., the website for 8X8, a provider of residential and commercial VoIP services at [http://www.8x8.com/residential\\_services](http://www.8x8.com/residential_services). The number of billing disputes may also be reduced because most VoIP providers offer bundled, single price services for local, long distance and custom features, and limit any usage based charges.

<sup>12</sup> See, <http://www.vonage.com/support.php?subtopic=18&topic=6>.

software enabled products, voice services that are bundled with the transmission service, and products that are available from “over the top” providers unrelated to the transmission provider. The key to ensuring that consumers are able to “vote with their feet” and protect themselves when they feel aggrieved by a particular provider is for the Commission to ensure the regulatory environment fosters innovation and competition in the VoIP marketplace – which in the long run – is the most effective way to ensure that service providers will act in the best interest of their customers. In addition, disgruntled VoIP customers have multiple options to express dissatisfaction with unresponsive service providers through online discussion groups and rating organizations. Potential customers can read these reviews and decide for themselves whether to switch to a VoIP service provider. These sites are likely heavily relied upon for discriminating consumers shopping for a VoIP service provider.<sup>13</sup>

Further, the VON Coalition strongly opposes expansion of the Commission’s authority under Section 208 to interconnected VoIP providers, even if such authority is limited to truth-in-billing informal complaints. Section 208 establishes a private right of action against common carriers. As an initial matter, the Commission has yet to classify whether interconnected VoIP is an information or telecommunication service (or a common carrier). While the Commission has imposed certain obligations on interconnected VoIP providers (i.e., CALEA, E911, USF and number portability), and has the authority to enforce noncompliance with those requirements, creating private rights of action for individual customers to file complaints at the FCC or in a federal court exposes VoIP providers who are not common carriers to potential liability that

---

<sup>13</sup> See, e.g., DSL Reports, forum on VoIP providers, at <http://www.dslreports.com/forums/59>.

would likely result in providers having to raise prices to account for the additional risk, and thus ultimately reducing competitive alternatives for consumers.

Finally, should the Commission choose to apply the truth-in-billing rules to interconnected VoIP providers, the VON Coalition recommends that just as the Commission exempted CMRS providers from Section 2401(c), neither should this section apply to interconnected VoIP providers.. Although the business models of interconnected VoIP providers vary widely, many providers offer a single, flat rate service that eliminates the artificial distinction between local and long distance calling. It would be onerous to require service providers to somehow disaggregate local charges in order to prevent potential disconnection for nonpayment. As stated in the NOI, the Commission did not impose the obligations of 2401(c) on CMRS carriers for similar reasons.<sup>14</sup>

For the foregoing reasons, VON respectfully requests that the Commission act consistently with the recommendations made herein.

Respectfully submitted,

VOICE ON THE NET COALITION

/s/

---

Glenn S. Richards  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street NW  
Washington D.C. 20037  
(202) 663-8215

Its Attorney

October 13, 2009

---

<sup>14</sup> NOI at para. 19.