

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

In the Matter of)	
)	
2018 Biennial Review of)	WC Docket No. 18-378
Telecommunications Regulations)	

REPLY COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (“VON”)¹ respectfully submits this reply to comments filed in response to the Commission’s Public Notice seeking comment on the 2018 Biennial Review of regulations that should be modified or repealed.² The record in this proceeding supports the repeal of several outdated and unnecessary administrative requirements and the modification of burdensome Universal Service Fund (“USF”) filing obligations imposed on interconnected voice over Internet protocol (“VoIP”) providers. VON supports these proposals and encourages the FCC to take all necessary steps to fulfill its statutory duty to repeal or modify any regulation that it finds is no longer in the public interest.³

VON is a non-profit organization whose members are dedicated to unleashing VoIP’s promise of significantly improving lives, supporting businesses, and enabling innovation through widespread adoption of IP communications products and services. To unlock this potential, VON and its members have advocated for an innovation-friendly regulatory environment. This

¹ VON is the leading advocacy organization for the Internet communications industry, working with policymakers to develop policies that support the availability and adoption of Internet communications products and services. For more information, see www.von.org.

² *FCC Bureaus and Offices Seek Public Comment in 2018 Biennial Review of Telecommunications Regulations*, Public Notice, DA 18-1260, WC Docket No. 18-378 *et al.* (rel. Dec. 17, 2018) (“Public Notice”).

³ *See* 47 U.S.C. § 161.

light touch regulatory approach has led to the introduction of tens of millions of new VoIP subscribers and the emergence of countless new industry entrants in just the past few years.

VON encourages the FCC to update its rules in ways that will allow innovation and competition to flourish. The record in this proceeding overwhelmingly supports a reevaluation of several regulations that unnecessarily hamper growth, including antiquated rules that were made in an era when VoIP was still emerging.

I. **Section 9.5(e)(2)**

VON supports NCTA's proposal that the FCC repeal the outdated requirement that VoIP providers obtain and retain an affirmative acknowledgement by every subscriber of circumstances under which E911 service may not be available.⁴ The FCC adopted this requirement in 2005 to ensure that customers were educated on certain limitations of E911 services from what the FCC called "the latest new frontier" in telecommunications.⁵ Fourteen years later, there has been widespread consumer adoption of VoIP. Providers routinely advise customers of 911 limitations, as required in Section 9.5(e)(1), on websites and in terms of service. The additional cost and administrative burden of obtaining and retaining the acknowledgement is no longer warranted. VoIP providers should be able to store their records in a manner most suited to their operations.

⁴ Comments of NCTA – The Internet & Television Association, PS Docket No. 18-376 (filed Feb. 8, 2019); 47 C.F.R. § 9.5(e)(2).

⁵ *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10247, ¶ 4 (2005). There is no similar requirement for wireline or wireless providers.

II. **Section 52.15(g)(3)(iv)(C)**

VON also agrees with NCTA that the Section 52(g)(3)(iv)(C) requirement that VoIP providers provide state commissions a 30-day notification prior to applying for numbering resources is outdated and unnecessary.⁶ Since the rule’s 2015 adoption, no number exhaust issues have arisen related to VOIP providers’ requests, all of which are routinely granted. Moreover, this requirement does not apply to other voice service providers. Relevant numbering information is available on the semiannual Form 502 report, which would serve as a more efficient source of such aggregate information, and state commissions have access to service provider applications pursuant to Section 52.15(g)(6).⁷

III. **Section 64.2009(e).**

VON supports USTelecom’s proposal to repeal, once and for all, the outdated and unnecessary CPNI collection and certification requirements, changes the Commission previously determined in its 2016 Broadband Privacy Order would “reduce[] burdens for all carriers.”⁸ As USTelecom notes, these requirements do not provide any meaningful benefit to protect consumers’ private information.⁹ In-house CPNI recordkeeping is now a standard practice for service providers, and year-after-year recertification by a company officer is an unnecessary and time-consuming burden.

⁶ Comments of NCTA – The Internet & Television Association, WC Docket No. 18-378 (filed Feb. 8, 2019); 47 C.F.R. § 52.15(g)(3)(iv)(C).

⁷ 47 C.F.R. § 52.15(g)(6).

⁸ Comments of USTelecom – The Broadband Association, WC Docket No. 18-378 (filed Feb. 8, 2019) (“USTelecom Comments”); *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, Report and Order, 31 FCC Rcd 13911, 14005, ¶ 235 (2016) (“Broadband Privacy Order”), nullified by Pub. L. No. 115-22, 131 Stat 88 (2017); 47 C.F.R. § 64.2009(c), (e).

⁹ USTelecom Comments at 12.

The FCC should also reinstate the Broadband Privacy Order’s business customer exemption.¹⁰ The exemption essentially permits voice providers serving enterprise customers to ensure that privacy and security are protected, either through means described by the FCC or through other mutually agreeable mechanisms. As VON noted in the underlying proceeding, “different services require[e] different regulatory treatment.”¹¹ The FCC agreed with this sentiment, stating, “business customers may have different privacy and security needs and therefore different expectations.”¹²

The Broadband Privacy Order was vacated for unrelated reasons as a result of the April 2017 Congressional Review Act resolution,¹³ and the FCC should reinstate this exemption as part of this biennial review.

IV. **USF rules for VoIP providers should be reasonable and equitable.**

VON supports the American Cable Association’s (“ACA”) common sense Universal Service Fund (“USF”) reforms.¹⁴ Interconnected VoIP providers, like other USF contributors, must determine the percentage of end-user telecommunications revenues derived from interstate and international services. As ACA notes, however, the safe harbor for VoIP providers is a staggering 64.9%, unchanged since its adoption in 2006; though the service is used today in many respects as a replacement for wireline phone service for local, intrastate and interstate

¹⁰ Broadband Privacy Order at 14040, ¶ 306.

¹¹ Comments of the VON Coalition, WC Docket No. 16-106 (filed May 27, 2016).

¹² Broadband Privacy Order at 14040, ¶ 307.

¹³ Pub. L. No. 115-22, 131 Stat 88 (2017).

¹⁴ Comments of the American Cable Association, WC Docket No. 18-378 (filed Feb. 8, 2019) (“ACA Comments”). VON disagrees with ACA’s underlying assumptions regarding mobile wireless services.

services.¹⁵ VON agrees that the FCC should revise this number downward to more reasonably approximate the actual percentage of revenues derived from such services – including possibly 22.1%, as ACA suggests.¹⁶

The FCC should also streamline its traffic study filing requirement. Small VoIP providers that use the study to allocate jurisdictional percentages of VoIP revenues should be able to use the prior year's traffic study as the basis for revenue estimates instead of having to go through the expensive process of compiling a report for each quarterly Form 499-Q.¹⁷ Quarterly studies are unnecessary when Form 499-A requires submission of an annual traffic study. Further, in conjunction with the existing true-up process for underreporting providers, this modification would not be consequential to USAC, but would relieve small providers of an enormous administrative burden while still reasonably basing their revenue estimates on legitimate data points.

Regardless, VON agrees that the Commission should confirm that VoIP providers are not required to file a traffic study when the provider has already determined its jurisdictional allocations by measuring 100% of its traffic for the reporting period.¹⁸ A traffic study is undoubtedly less reliable than a complete traffic measurement that reports a provider's actual interstate revenues.

¹⁵ *Universal Service Contribution Methodology*, Report and Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7545, ¶ 53 (2006).

¹⁶ For avoidance of doubt, any adjustment of the VoIP safe harbor should apply to all interconnected VoIP providers. ACA Comments at 9.

¹⁷ ACA Comments at 10.

¹⁸ *Id.*

CONCLUSION

The VON Coalition asks the Commission to act in accordance with the recommendations herein.

Respectfully submitted,

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March 11, 2019